MASTER
NEGATIVE
NO. 95-82373-12

Author:
U.S. Congress.

Title:
Labor-management relations, West Coast...

Place:
Washington, D.C.

Date:
1948

95-B2373-12
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U. S. Congress. Joint committee on labor-management relations.
Labor-management relations, West coast maritime industry. Report pursuant to section 401 of Public law 101 (80th Cong.) Washington, U. S. Govt. print. off., 1948.
vi, 66 p.

At head of title: Committee print. 80th Congress, 2d session. Senate. Report.

RESTRICTIONS ON USE:

TECHNICAL MICROFORM DATA

FILM SIZE: 35mm REDUCTION RATIO: 12X IMAGE PLACEMENT: IA (IIA) IB IIB

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[COMMITTEE PRINT]

80TH CONGRESS, 2d Session | SENATE | REPORT No. ——

LABOR-MANAGEMENT RELATIONS
WEST COAST MARITIME INDUSTRY

REPORT
OF THE
JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS
CONGRESS OF THE UNITED STATES
PURSUANT TO

SECTION 401 OF PUBLIC LAW 101 (80TH CONG.) ESTABLISHING A JOINT CONGRESSIONAL COMMITTEE TO BE KNOWN AS THE JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS

Printed for the use of the
Joint Committee on Labor-Management Relations

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1948

82441

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[Created pursuant to sec. 401 of Public Law 101, 80th Cong.]

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LETTER OF TRANSMITTAL

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS,
——, *1949*.

The PRESIDENT PRO TEMPORE OF THE SENATE,
United States Senate, Washington, D. C.

SIR: In accordance with Public Law 101, Eightieth Congress, as chairman of the Joint Committee on Labor-Management Relations, it gives me pleasure to present to you a report of this committee, which I ask that you lay before the Senate of the United States for consideration, with a view to its being printed.

Respectfully submitted.

JOSEPH H. BALL,
United States Senator, Chairman.

CONTENTS

PART IV. CRITICAL APPRAISAL OF CAUSES OF CONFLICT

This report, based on their field study, was prepared for the committee by John F. Preston, Jr., and Ralph R. Pickering, of the staff.

80TH CONGRESS, 2d Session } SENATE { REPORT No. ——

LABOR-MANAGEMENT RELATIONS

————, 1948.—Ordered to be printed

Mr. BALL, from the Joint Committee on Labor-Management Relations, submitted the following

REPORT

[Pursuant to sec. 401 of Public Law 101, 80th Cong.]

INTRODUCTORY SUMMARY

Industrial relations in the Pacific coast maritime industry have been in constant turmoil for the past 14 years. The record of work stoppages is almost incredible. The public, the unions, the industry, and the workers have all suffered immeasurably. This report is not intended to suggest the answers to these problems; it seeks merely to state the facts as the authors have found them and to analyze some of the underlying causes.

Industries with a low-profit margin and diminishing employment opportunities find it difficult to accommodate themselves to workers' demands for steadily upward revisions of labor costs. The maritime industry, faced with low-cost foreign competition, an adverse rate structure held down under the ceiling of competitive rail rates, and shrinking cargoes, has not been in a position to expand its operations or to look with equanimity upon skyrocketing wage costs. Industrial strife, in part the result of the industry's economic status, has itself contributed to further decline.

This industrial strife has its roots in historical development. The industry has attracted the individualist, the nonconformist, the floater without roots in the community. Employment both ashore and afloat has been highly casual, and little effort has been made to achieve a

stable employment relationship. Personnel policies and attitudes of the employers were delinquent until unions forced a change. These conditions, together with bitter employer resistance to self-organization of the workers, forced a militant, aggressive, left-wing type of leadership to power in the unions. Some of these leaders have maintained themselves in power by overemphasizing the opposing areas of self-interest of workers and management. The relation between union and management was born in strife and has been reared in struggle.

Before a ship can sail from a western port, six seagoing unions and at least one shore union must all have reached agreement with the operator. Four of these are CIO, two AFL, and one independent. Jurisdictional lines are not always clear, and rival political ideologies intensify the conflict between them. The result has been dehydrated bargaining in which each party tends to state its demands and refuse to recede therefrom lest its rival reach a better bargain.

From the ensuing stalemate, the parties turn to arbitrators and Government for settlement. Difficulties are increased by the practice of both parties attempting to generate public support for their respective positions—a practice which results in name-calling and in public statements of an adamant position from which retreat is impossible without loss of face.

The bargaining relationship stems from the award in 1934 of the President's National Longshoremen's Board, appointed to find a basis for settlement of the coast-wide strike which had engulfed the western water fronts. That award established hiring halls for longshoremen in each port, and contemplated joint control by the union and the association of employers. By means of union domination of the hiring hall dispatcher, the union was able to convert joint control over hiring and job assignment to unilateral union control. The employer was deprived of all right of selection. By equalizing the work opportunities and assuring each member in good standing his share of the available work, the union effectively nullified all discipline. The indolent or efficient, itinerant or reliable, insubordinate or trustworthy—all shared equally so long as membership in good standing was maintained. Incentive for good work was destroyed. Efficiency declined while the cost of handling cargo absorbed an increasing proportion of gross revenue.

Responsible and mature union leaders began to realize they were pricing themselves and the industry out of the market and into bankruptcy. But the complexities of the bargaining relations have raised a barrier against constructive action. Meanwhile, other union leaders preached the doctrine of class struggle and openly challenged the right of private enterprise to exist. They renounced the principles and practices of good faith collective bargaining. Industry regarded these leaders as a threat to its existence. Each party believes the opposing party seeks its extinction. Agreement between them has been impossible. Collective bargaining between them over 14 years has utterly failed to resolve the critical issues of political sovereignty.

The employers are united in two strong coast-wide associations dealing with unions representing the seagoing and shore-side workers, respectively. The unions are organized into coast-wide units with central control and tellingly directed economic power. Such multi-unit bargaining has made the cost of conflict high, but has not itself been the cause of strife. The nature of the industry's operations makes the Pacific coast a homogeneous unit which suggests the appropriateness of coast-wide bargaining.

LABOR-MANAGEMENT RELATIONS IN THE WEST COAST MARITIME INDUSTRY

Part I. The Industry, the Parties, the Bargaining History

A. NATURE OF THE INDUSTRY

For more than thirteen hundred miles of coast line the States of California, Oregon, and Washington face upon the Pacific Ocean. Spaced along its length are nearly 30 small seaports, and the 4 great harbors formed by San Francisco Bay, the Columbia River, Puget Sound, and the man-made harbor of Los Angeles. Into these ports steam great passenger liners and freighters flying flags of the Orient, Europe, and of Central and South America. Water fronts are active with the commerce of nations and with the men who sail the ships and those who move the cargo.

In 1939, the last year of normal shipping operations, a total of 22,554,036 tons of cargo moved through Pacific coast ports. This vast commerce is classified as domestic, consisting of coastal and intercoastal trade, the noncontiguous island and Alaskan, and the offshore or foreign trade.

The industry gives direct employment to approximately 17,000 seagoing personnel who man the 375 west-coast vessels and to nearly 15,000 water-front workers who load and discharge cargo, with a combined monthly pay roll of almost $10,000,000.

Economic ills of the maritime industry

The economic picture of the American merchant marine has been dismal and foreboding for some years. The industry has not been a profitable one, and the outlook for the future is none too bright. It is beyond the scope of this paper to analyze the industry's economics, but a low profit return and shrinking employment opportunities are always factors to be considered in a study of labor-management relations. Expanding and profitable industries are in a better position to accommodate themselves to workers' demands than industries whose markets are in constant jeopardy or whose operations leave comparatively little room for steadily upward revisions of labor costs.

The decline of domestic water-borne commerce on the west coast is of prime concern to all those interested in the future of the industry. There is much to indicate that this concern is not ill-founded. Mr. Albert Gatov, president of the Pacific American Steamship Association, expressed the concern of the industry in the following paraphrase: Fifteen years ago domestic commerce accounted for most of our total tonnage and revenue. We now have only six ships engaged in the coastal trade and practically no tonnage at all. Intercoastal trade has declined appreciably. Increased handling costs and over-all costs of shipping operations are largely responsible for this decline, but there are other economic factors which also play a part. Such things

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as the industrial development of the Northwest have lessened the demand for shipping services. The spread between rail and water rates has been too small to attract cargo, and unreliable service as the result of labor strife is constantly driving shippers to other means of transportation.

The foreign shipping trade does not offer much hope, either. At the present time Army shipments to occupation areas of the Pacific account for a large proportion of the offshore tonnage. This is assumed to be of temporary nature. Foreign tramp shipping, which offered such strong competition to our merchant shipping before the war, is steadily on the increase and will become increasingly competitive as other maritime nations build up their war-depleted merchant marines with new and faster ships.

A report of Admiral Smith of the Maritime Commission, dated November 26, 1946, describes the status of private and governmental operations in the domestic trades:

> Existing rate structures in these trades are inadequate to support successful private operation and there is accordingly a strong possibility that many of these services will cease if governmental operation is discontinued. Specifically, the intercoastal and coastwise trades require sharp rate increases to meet increased operating costs but competitive rail rates are at present so low—because of pre-war competitive practices—as to establish ceilings upon the water rates so that sufficient increases in water rates cannot be effected without equalizing with the rail rates and thereby driving the traffic to the railroads altogether.
>
> In the intercoastal service, there are a few operators controlled by industrial concerns which might endeavor to continue their operations on a restricted basis. The other lines in these trades, however, could not be expected to attempt operation for their own account in view of the certain prospect of large operating losses. The result would be such widespread discontinuance of service as to seriously impair the national economy. Also, lines engaged in the coastwise trades would certainly cease operations altogether with the exception of the specialized contract carriers of commodities in bulk. These results paint a dismal picture but, nevertheless, they are considered, in our opinion, to be the probable outcome of an abrupt discontinuance of government operation.
>
> The experience of War Shipping Administration and the Maritime Commission in the intercoastal trade this past year has demonstrated that: (1) Cargo is available in large quantities and is increasing; (2) the revenue obtained per ton of cargo carried and per voyage is slightly higher than prior to World War II, and (3) the direct operating costs, due to increases in wages and other vessel and voyage expenses, have soared tremendously.

Soaring direct operating costs, as indicated by the Maritime Commission, have been identified by almost every student of the subject as the principal reason for the inability of the American merchant marine to maintain a reasonable profit level. The cost of handling cargo alone absorbs approximately 41 percent of gross revenue. The situation has been well summarized by Paul Lawler:

> In the past the most important reason for the shipping companies' poor income statements—above and beyond the rate level, which under the circumstances could hardly have been raised enough to make a real difference—was the unnecessarily high cost of handling cargo. The cost incurred in loading and discharging cargo from common-carrier vessels has been much greater than the costs of actually transporting the goods.[1]

Thoughtful maritime union leaders realize that they have come close to pricing themselves out of the market. The ever-increasing burden

[1] Paul F. Lawler, Crisis in the Domestic Shipping Industry, Harvard Business Review, winter 1946.

of mounting labor costs threatens much of the industry with extinction. There is, indeed, a crisis in domestic shipping—a crisis largely the result of unsolved problems in labor-management relations.

The economic ills of the industry have made the achievement of good labor relations more difficult; but, conversely, industrial strife contributes to the unfavorable economic position of the industry.

This report seeks to examine the causes and development of some of these labor-relations problems and to give a factual account of some of the underlying difficulties which are the source of perennial strife.

Unique environment

It must be recognized at the outset that this industry is unique in so many ways that most of the generally accepted concepts of good labor relations can be applied only with considerable qualification. Partly because of these differences, management generally has been slow to recognize the importance of good labor relations and to adopt policies and practices designed to achieve them.

Traditionally, the sea captain has been absolute master of his crew and has not infrequently exercised his authority harshly. Owners and shipping executives have often been portrayed, and not without some justice, as hard men of business but little moved by compassion or regard for the welfare and dignity of the men who sail their ships and move their cargo. Be this as it may, the employer-employee relationship has always been a highly casual one, both on the shore and in the ships.

Life at sea until very recent years has offered little to attract a stable, loyal, and industrious labor force. The call of the sea has most frequently been answered by the adventurer, the romanticist, the individualist who would not be bound by ordinary conventions of society. He was less concerned than most with job security, retirement pay, paid vacations, or continuity of employment. Usually he signed on for one voyage only, and neither he nor his employer contemplated that the relation should be any more enduring. Such employees can feel no great loyalty to a particular employer. Loyalty is developed for the union which obtains job assignments for the men rather than for the intermittent employer who actually signs them up. Only now are shipping executives beginning to realize that the men who man their ships feel a primary loyalty to their unions rather than to their employer.

The employment relation has been even more informal between stevedores or steamship companies and their longshore employees. Cargo handling is recognized as among the most highly casual of industries. Hiring is by the hour, not the day. "That's all" when the hatch is finished means the end of that job with an uncertain wait for the next one. Labor turn-over is nearly 100 percent a day. An unregulated water front is a graphic example of a glutted labor market with all the inevitable abuses. Under the old hiring methods, a job was too often dependent upon the favoritism of the boss, bought with drinks or favors. One gang was pitted against another for the right to work the next hatch, with the losers being cast upon the streets to look for another job.

These were not conditions likely to produce healthy employment relations. It has often been observed that industry today generally has about the type of unionism that it deserves; that is to say, that the character of union leadership today is usually the result of management policies yesterday. If the maritime unions today receive the primary loyalty of the men and exercise a high degree of control over the job, if they are led by aggressive fighters not entirely sympathetic with management problems and inclined to look with distrust upon any management proposals, the delinquent personnel policies of the decade following the First World War are partly responsible.

Seattle hiring hall

This is not to suggest that no one in management recognized the problems, or that steps had not been taken toward their solution. The Seattle longshore hiring hall might be cited as one example. Seattle employers recognized that decasualization, the problem of balancing the constantly changing and intricate needs of the ships for men and the needs of men for the jobs, was a prerequisite to efficient cargo handling by a stable and dependable work force. Each sizable port needs a considerable manpower reserve. If this pool is not maintained by the port, then each employer must have his own reserve, which makes for a permanent and severe port surplus with chronic unemployment.

In an attempt to solve this problem, Frank Foisie was commissioned in the spring of 1921 by Seattle employers to establish a longshore hiring hall after the pattern devised by British labor's Ernest Bevin and successfully employed in Liverpool. The hall maintained a central registration of all men eligible to work on the Seattle water front, a necessary control which made decasualization possible. Under it, the individual employer gave up the right to hire whom he pleased, but gained compensating liberties. Likewise, the individual longshoreman gave up the right to seek a job where he would, but gained more steady employment derived from a central source. The hall was operated on the principle that within the registration each employer was free to select such men as he wished and could attract for steady work. The balance made up a reserve pool available for the peak needs of all employers but limited to the number to which the industry could offer reasonably full employment.

To the extent that the hiring hall resulted in a more stable work force to which steady employment was available, it was a desirable step forward. To the extent that control of registration and employment was used by the employers to combat the growth of unionism and maintain the open shop, it may have contributed to the forces which eventually erupted into bitter open warfare all along the western water fronts.

B. THE PARTIES

Basic wages and hours of longshoremen on the Pacific coast have been more or less uniform since about 1922, although differences between the ports have persisted in such matters as sling loads, port working rules, and size of gangs. This general uniformity has been attributed to close cooperation between employers of longshore labor

even in the absence of any early formal unifying association for the entire coast. However, for many years there have been associations of employers in each of the major ports. It was some 3 years after the 1934 water-front strike that the employers were finally forged into an organization that could, under central direction, act as a unit either in one port or on the entire coast.

Waterfront Employers Association (WEA)

A committee consisting of representatives of the four major port associations was formed during the 1934 strike and carried on the negotiations with the longshoremen which finally culminated in the October 12, 1934, award. This award was stated to be "a series of agreements between the International Longshoremen's Association, acting on behalf of various locals whose members perform longshore labor" on the one hand, and each of the regional associations separately, on the other hand.

In May 1935, Francis P. Foisie was given the task of coordinating the activities of the four regional associations, and it was understood that employers who were members of the associations could not enter into individual agreements with longshore unions. Only a very small percentage of those companies employing longshore labor were not members of the associations.

In 1936, with the approach of the contract termination date and increasing tension on the water front, the employers met in conference and appointed a coast committee for the shipowners which was to act on behalf of the four regional employer associations in negotiations with the coast negotiating committee of the unions.

Following termination of the 1936–37 strike, this committee became known as the Waterfront Employers Association of the Pacific Coast (WEA) and was incorporated June 22, 1937, as a nonprofit corporation under the laws of California. Subsequently, the regional associations for northern and southern California combined into the Waterfront Employers Association of California, so that at the present time the coast association includes as members the associations representing employers in each of the three coastal States.

In addition, substantially all the employers of water-front labor are members of the association. The articles of incorporation give the WEA authority—

> to fix, establish, and maintain * * * policies in all matters relating to longshore work and other employments ashore at Pacific coast ports of the United States (except Alaska).

The association represents and acts for its members both in negotiating contracts and in their enforcement or policing. A small professional staff of the association, for the most part, replaces industrial relations officers of individual companies.

Policies and programs of the association are determined by a board of directors elected by the members. It should be observed that membership is divided into two classes. Steamship operators are voting members; direct employers of longshore labor (stevedores) are associate members without vote. Voting members receive a number of votes in proportion to the tons of cargo loaded and/or discharged by or for such member during the preceding year.

Some steamship companies do their own stevedoring; others contract the work to stevedoring companies and terminal operators. In either case, it is the ship which pays the cost of cargo handling. Partly for this reason, it is the steamship companies and not the direct employers of shore labor who formulate and execute the labor policies.

Pacific American Shipowners Association

The Pacific American Shipowners Association (PASA) is the employers' organization representing them in negotiating and administering contracts with the seagoing unions. It was incorporated on January 27, 1936, "to act as intermediary between employers and employees in matters relating to seafaring labor." The association membership consists of about 37 American flag steamship lines with headquarters on the Pacific Coast. It shares offices with WEA, has many of the same directors and some of the same staff. PASA negotiates and administers contracts with the following maritime unions: National Organization of Masters, Mates, and Pilots (MM&P-AFL); National Marine Engineers Beneficial Association (MEBA-CIO); American Communications Association (ACA-CIO)[2]; Sailors Union of the Pacific (SUP-AFL); Pacific Coast Marine Firemen, Oilers, Watertenders, and Wipers (MFOW-IND); and the National Union of Marine Cooks and Stewards (MCS-CIO). Together, these contracts cover approximately 17,000 American seafarers currently employed on over 375 American ships operated by the west coast lines.

It should be observed that PASA, like WEA, is not merely an informal association of employers who jointly negotiate a uniform contract for the industry. This is an association which negotiates the contract and then administers it for all of its members. It has acquired an institutional character, an identity somewhat distinct from its individual members. The amended articles of incorporation proclaim that PASA is formed, inter alia—

to represent members in all matters relating to labor * * *

and—

to enter into, perform and carry out agreements between its members and groups or associations of working men, and to act on behalf of its members in all matters relating to labor in which they are interested.[3]

Each member of PASA is entitled to cast a number of votes in proportion to the average number of seafaring employees employed on vessels operated by such member. Such an employee vote is reported to be rare, however, since initial differences between the

[2] The last contract, which terminated June 15, 1948, was with ACA-CIO. Since then the marine radio officers have been temporarily affiliated with MEBA-CIO, the IBEW-AFL, and ARA-CIO. A jurisdictional conflict between factions is now in progress and negotiations looking toward a new contract have been broken off pending determination of the question of representation.

[3] The by-laws further provide that "If any union, its members or officials, shall violate any labor agreement or award relating to wages, hours or working conditions of the seafaring employees of any members of this corporation, whether by strikes, stoppages of work or in any other manner, such member shall place the matter in the hands of the executive committee for handling * * * but if the committee fails to secure compliance, a meeting of the members shall forthwith be called by the committee and all members agree to take whatever action shall be determined by a majority vote of the members, and in all matters relating to the employment of seafaring personnel to act in accordance with the instructions and policies determined by a majority vote of the members."

members are usually resolved by discussion until there is virtual unanimity of opinion.

It will be seen that an employer association such as PASA both determines and executes employer policy on labor matters for the entire industry. A small staff of experts working for the association largely replaces the industrial relations managers of the individual member firms. The reasons for the development of this administrative-type employer association were described by Clark Kerr and Lloyd H. Fisher[4] in these terms:

San Francisco employers shortly discovered that whipsaw tactics could be used by sophisticated and ingenious unions during the life of a contract, as well as during its negotiation. Through job action or the processing of individual grievances, improvements in job rates or conditions were obtained from individual employers, and the standardizing process repeated. This changed the character of the association into the administrative type. Joint action, rather than taking place periodically during disputes over contract terms, became constant. The joint negotiating committee gave way to the permanent administrative institution.

There is an extremely close-working liaison between PASA and WEA, the two associations being described by some observers as merely the same men with different hats. The charge is substantially, if not literally, true. However, WEA includes among its members many foreign-flag lines and their agents, terminal operators and stevedores, whereas PASA is composed entirely of owners of American flag vessels. Be that as it may, a majority of the directors of the one association are also directors of the other, and the labor policies of the two associations are very closely coordinated. This is, of course, a quite natural and logical development, since it is usually the ship which pays the cost of cargo handling to and from the dock and a steamship operator is as much concerned with labor problems on the dock as on the ship.

The unions

The principal union with which WEA deals is the International Longshoremen's and Warehousemen's Union (ILWU-CIO), although it also has some contracts with the International Longshoremen's Association (ILA-AFL) covering roughly 700 waterfront workers in the Puget Sound ports of Tacoma, Anacortes, and Port Angeles. The ILA also represents dock foremen and checkers in Seattle, although longshoremen in this port belong to the ILWU.

Prior to 1921, there had been strong unions for many years in the maritime industry. On the docks, the International Longshoremen's Association had jurisdiction; while aboard ship divisions of the International Seamen's Union represented unlicensed seamen.

The ILA lost control of the Pacific coast water front as a result of strife which originated in 1916 on the San Francisco docks. An agreement terminating that strike was short lived, and an unsuccessful strike in 1919 all but destroyed the union on the west coast. Within 2 years all of the ports except Tacoma were being operated open shop.

[4] Insights Into Labor Issues, by R. A. Lester and J. Shister, Macmillan, 1948. Chapter 2. "Multiple-Employer Bargaining: The San Francisco Experience" was contributed by Dr. Clark Kerr, director of the University of California Institute of Industrial Relations and a former impartial chairman under the longshore contract, and Lloyd H. Fisher, formerly research director for the ILWU, now at Harvard University.

The ISU suffered an equally disastrous defeat in 1921.

Following enactment of the National Industrial Recovery Act (NIRA), the ILA sent organizers to the west coast, and it was not long until enough members had been secured to warrant organization of the Pacific coast district of the ILA.

Strong discontent over employment conditions met with energetic employer resistance. Out of the resulting water-front strike in the summer of 1934, involving longshoremen, all of the seafaring crafts, and ultimately a general strike of some 90,000 workers, emerged strong unions in all branches of the Pacific coast maritime industry.

In 1935 the Maritime Federation of the Pacific combining all the west coast maritime unions, was formed. The men manifest that lack of discipline frequently found among the newly organized, and they displayed hostility to the old leaders of water-front unions. The influence of radical doctrines was strongly felt. The quickie strike and "job action" [5] became instruments of union policy. Harry Bridges, of the ILWU, and Harry Lundeberg, of the SUP, emerged as the powerful figures on the docks and on the ships.

Soon thereafter, serious differences between the longshoremen and the seamen began to appear. At about the same time, Bridges led his longshoremen out of the AFL into the newly formed CIO. Differences between the longshoremen (ILWU) and the sailors (SUP) have developed into open hostility. The Maritime Federation of the Pacific has disintegrated, and in its place there is rivalry between the AFL and the CIO, with Lundeberg and Bridges each exercising some influence over leaders of other maritime unions.

All of the unions operate as strong coastwise units with centralized direction and control in San Francisco. Their collective bargaining contracts are with PASA and WEA, representing the employers, and cover the Pacific coast as one homogeneous unit.

C. COLLECTIVE BARGAINING HISTORY

The longshoremen

Modern history of west coast labor relations begins with the strike of 1934 and its settlement. This strike began on May 9 and lasted until the 31st of July, involving not only the longshoremen but all of the seafaring unions as well, and eventually erupting into a general strike. It serves no purpose now to recite the bitterness with which the battle was waged except to suggest the depth of the scars that remained.

The parties being unable to reach a negotiated settlement finally agreed to submit the issues to arbitration before the National Longshoremen's Board which had been appointed by President Roosevelt to find some basis for settlement. The Board handed down its award October 12, 1934. Subsequent contracts between the parties have taken the form of amendments to the 1934 award.

It is important that the water-front strike of 1934 was not a mere strike for recognition but was for ends beyond those of the ordinary

[5] The term "job action" as used in the industry means action taken on the job by a group of workers attempting to gain some concession not covered in the contract, or to enforce some particular interpretation of the contract.

strike. Its essential aim was to shift job control from employers to the union. In this it was successful. The change from practically complete employer control of labor relations, which had been the case before the strike, to practically complete union control on its termination, was so sharp that some employers failed to realize the nature of the revolution that had taken place. Indeed, this could hardly have been foreseen in the words of the award itself. New and higher rates of pay and shorter hours were granted, and hiring halls and labor relations committees established for each port. The award directed that all hiring of longshore labor be done through halls maintained and operated jointly by employers and the union through the labor relations committee. The dispatcher was to be a union official, but the award specifically directed that all registered longshoremen should be dispatched without favoritism or discrimination, regardless of union or nonunion membership. The list of eligible longshoremen was to be compiled by the labor relations committee, composed of equal representation from employers and the union. This committee was also to handle all disputes and grievances, and refer any matter on which agreement could not be reached to an arbitrator.

This agreement, although modified in certain respects, has remained the basis of west coast longshore labor relations, and has profoundly influenced relations with the seagoing unions. It was voluntarily renewed in 1935. At its termination in 1936 both sides desired modifications. Negotiations broke down, mediation failed, the unions declined to accept arbitration, and another strike was in progress. The basic issue here again was job control—the unions demanding preference of employment and the employers demanding the right of selection and some means of enforcing compliance with the agreement. The strike finally came to an end February 4, 1937, with new contracts. Job control remained basically unchanged with the longshore union still maintaining effective control of the hiring hall through its dispatcher, and with a preference of employment clause added to the longshore contract, but preference of employment was not extended to the licensed officers on shipboard. During 1937 the parties negotiated agreements covering penalty cargo [6] and sling load limits.

In 1938, following proceedings before the National Labor Relations Board, the International Longshoremen's and Warehousemen's Union, CIO, was certified as coast-wide bargaining agent for Pacific coast longshorement.[7] A new agreement was negotiated in October 1938. This contract was opened in 1939, and following extended negotiations an agreement was consummated in December 1940.

During the 15 months of negotiations between WEA and ILWU during 1939 and 1940, which resulted in the contract of December 1940, the employers took the position that they would accord no concessions to the union and make no improvements in wages or working conditions until they had assurance that the union would meet their

[6] Penalty cargo is that which carries a higher rate because it is considered obnoxious, difficult, or dangerous to handle. The list is amended from time to time, but generally includes such things as bones, hides, fertilizers, refrigerator cargo, damaged cargo, and explosives.

[7] 7 N. L. R. B. 1002. In 1941 the Puget Sound ports of Tacoma, Anacortes, and Port Angeles were separated from the coast-wide unit after the ILA-AFL established before the Board its majority in those ports. 22 N. L. R. B. 668.

two fundamental demands. These were, first, that illegal stoppages and "job action" should cease and the contract be complied with so that shippers would be assured of some certainty in the movement of water-borne cargo; and, second, that the standards of work performance and production be returned to a reasonable level of efficiency. Negotiations continued for more than a year, with the industry operating practically on a day-to-day basis. The agreement finally reached gave promise of a better relationship in the future. It streamlined the grievance procedure, included new provisions on introduction of labor-saving devices and discipline of employees.

There was considerably less friction between the parties under this contract, which, except for wage changes, remained in effect throughout most of the war period and was opened at the end of September 1944.

During the war years, control over labor relations was exercised by the Maritime Industry Board, War Labor Board, War Shipping Administration, and the Maritime Commission. The Government's wartime operation of American shipping was accompanied by an increase in labor costs greater than that felt by American industry generally. The need for attracting men to the sea in the face of wartime risks led to the granting both of wage increases and substantial war-risk bonuses which have had their effect on the postwar wage structure. On the shore side, time was vital and cost was not important. The need for swift movement of cargo encouraged uneconomic labor practices, and the retention of some of these has greatly increased the cost of handling cargo today.

The 1940 contract as modified remained in effect until September 1944, when it was terminated by the parties' failure to agree upon changes. Collective bargaining having failed to resolve their differences, the dispute was heard by the War Labor Board, which issued its order of August 18, 1945, directing wage increases and other monetary concessions. The order also directed contract revisions to include a paid vacation plan, modifications in the grievance procedure, and new provisions on discipline of employees. Employer requests for restoration of steady gangs, and for selection of the hiring hall dispatcher by the labor relations committee from among the union membership, were denied.

On July 30, 1945, the union served notice of its desire to reopen the agreement. On September 21, 1945, the union requested that the contract be extended beyond its termination date of September 30, 1945, while negotiations were in progress, and the employers so agreed on September 26. Negotiation followed which did not result in an agreement. On January 25, 1946, the union notified the Department of Labor and other Federal agencies that a strike vote was being conducted by secret referendum of the union membership. The vote, which was concluded by February 20, showed 93 percent of the longshoremen and about the same percentage of ship's clerks favoring a strike. The union negotiating committee was authorized to call a strike on or before April 1, 1946.

On March 15, 1946, negotiations deadlocked, and the parties jointly called in the Conciliation Service of the Department of Labor. Six subsequent meetings failed to result in a settlement. In response to a wire from the Secretary of Labor, the union negotiating committee was authorized by the membership to postpone the strike. On April 5, 1946, the Secretary established a fact-finding board to investigate and submit recommendations with reference to the labor disputes in the Pacific coast longshore industry. In conclusion, the report of the board stated that—

> We have examined rather carefully the history of collective-bargaining relations in the Pacific coast longshore industry and find no difficulty in reaching the conclusion that there has been little genuine effort to observe the spirit of collective bargaining * * * The public interest—indeed, the mutual interests of the parties—requires an improvement of both the attitude and the effectiveness of the parties in meeting problems of the industry.[8]

Nevertheless, strikes occurred in Los Angeles, San Francisco, and Seattle during the spring and summer of 1946. New contracts were negotiated, with the help of Government conciliation, following Nation-wide strikes in the fall of 1946. The most recent contract was negotiated in June of 1947 and was terminated in June 1948.

In addition to the coast longshore contract, there are some 12 additional contracts covering car loading, dock work, and ship clerks in each major port. These separate contracts are with the ILWU for California and Oregon ports, while the ILA represents the clerks in Washington.

The seagoing unions

The history of contract negotiations between the seafaring unions and the steamship companies, while differing in many respects, parallels the major settlements with the longshoremen. The great waterfront strikes of 1934 involved both shore and ship employees. The July 11 agreement to arbitrate the issues before the Presidential-appointed National Longshoremen's Board did not include agreement to arbitrate issues involved in the strike of seagoing employees. However, it was apparent that no satisfactory settlement could be reached with one union until agreements had been reached with all, and the Pacific coast steamship companies agreed, at the request of the National Longshoremen's Board, to collectively bargain with representatives of their various seafaring employees after elections conducted by the President's Longshoremen's Board had determined the proper representatives, and to submit to arbitration any controversies not settled by negotiation. As a result, agreements were consummated during 1935 with the various maritime unions representing seafaring employees.

The 1936–37 strike likewise involved both the longshoremen and the seamen, and resulted in new contracts for both. These were the days of the Maritime Federation of the Pacific, combining all the West Coast maritime unions, with agreements between them that none would settle its dispute until all had reached agreement. Soon after, however, serious differences between the seamen and the longshoremen began to appear. The split was partly doctrinal, the longshore leadership being inclined to look with favor upon the trade-union doctrines of the Communist Party, but the differences were made more

[8] U. S. Department of Labor, Report and Recommendations of the Pacific Coast Longshore Fact Finding Board, James Lawrence Fly, chairman, May 13, 1946.

acute by frequent and prolonged jurisdictional disputes between them, accentuated by serious unemployment along the water front. Also at this time the rivalry between the newly formed Committee for Industrial Organization (CIO) and the A. F. of L. was most intense. Joe Curran had led a break of seamen from the ISU on the east coast and formed the NMU. On the west coast, the sailors remained AFL., but the longshoremen, radio operators, and marine engineers affiliated with the CIO.

Since that time, each of the unions has regularly negotiated new contracts with the industry. There have been frequent work stoppages, both during the life of the contracts and over negotiation of new agreements. During the war the normal relations between the parties were suspended and working conditions directed by various Government agencies. With the cessation of hostilities, new contracts were consummated between the parties. During this period of spiraling living costs, there has been one wage increase following another in steady succession.

Absence of collective bargaining

With all this maze of contracts and agreements between the parties since 1934, it should be observed that there have been few significant changes which were the result of collective bargaining. Such changes as have occurred have all too frequently been the result of Government intervention after failure of the parties to reach agreement. Other revisions have occurred as the result of arbitration awards under the contract, but the frequency of these again demonstrates the failure of collective bargaining. Indeed, even the arbitration awards have frequently been ignored or rejected by the parties. No competent observer has been found willing to state that true good-faith collective bargaining plays any appreciable part in the relations between the employers and the maritime unions on the Pacific coast. A few of the maritime unions are headed by mature and responsible leaders with whom good-faith collective bargaining might be effective. The context in which the bargaining relation occurs largely nullifies their efforts because of the dominant position irresponsible union leaders hold in the industry. Moreover, the rivalry between unions and fear that some other unions will obtain greater concessions tends to stifle real bargaining.

Perhaps the most bitter complaint of the employers is that collective bargaining has been made a mockery by "job action," that process by which the men win on the job whatever their leaders have failed to win at the conference table. "Job action" as a means of gaining concessions was officially endorsed by the Maritime Federation, and so controlled as to achieve its maximum effectiveness without forcing the employers to meet the program with unified resistance. Usually it was far cheaper for the employer to make the concession on the individual job than to refuse and run the risk of tying up his ship.

The unions, while admitting the use of job action as an instrument of union policy, maintain that from the outset of the collective-bargaining relationship, employers, traditionally hostile to collective bargaining, have engaged in a campaign to undermine the conditions established by the agreement. They contend that experience has proved that threatened or actual force is the only way conditions can be maintained at the level stipulated in the agreement.

Whatever the facts, it is abundantly clear that, despite the number of "agreements" reached by the parties over the years, the changes in wages and working conditions have been largely achieved by Government directive, arbitration award, or independent action outside the contract. Collective bargaining has not yet begun.

The following table, prepared on request of the Joint Committee on Labor-Management Relations by the Bureau of Labor Statistics of the United States Department of Labor, shows the major work stoppages from 1934 through 1947, and indicates the manner in which each was settled.

Work stoppages involving 1,000 or more workers in the water transportation industry, Pacific coast, 1934 to 1947

Employer(s) and/or occupational group(s) involved	Workers involved	Approximate date stoppage—		Major issue(s)	Settled by—
		Began	Ended		
Longshoremen, California, Oregon, and Washington ports.	6,000	May 9, 1934	July 30, 1934	Recognition, wages and hours.	(1)
Seamen, California, Oregon, and Washington ports.	8,000	May 17, 1934	-----do-----	Sympathy	(1)
Longshoremen, Seattle, Wash.	1,400	Jan. 21, 1935	Jan. 21, 1935	Union matters, miscellaneous.	Parties directly.
Seamen, 15 steamship companies—Stockton, Sacramento, San Francisco, Calif.	3,750	July 2, 1935	Oct. 4, 1935	Wage increase	Government conciliation.
Longshoremen, San Francisco, Calif.	2,800	Aug. 31, 1935	Oct. 10, 1935	Sympathy	Do.
Do	1,650	Apr. 14, 1936	Apr. 21, 1936	Union matters, miscellaneous.	Government arbitration.
Seamen and longshoremen, Pacific coast ports.	37,000	Oct. 30, 1936	Feb. 4, 1937	Recognition, wages and hours.	Government conciliation.
Longshoremen, Los Angeles, Calif.	4,000	Feb. 11, 1937	Apr. 11, 1937	Sympathy	No formal settlement.
Longshoremen, San Pedro, Calif.	2,040	Mar. 20, 1937	Mar. 23, 1937	Miscellaneous	Government conciliation.
Longshoremen, Seattle, Wash.	1,350	Jan. 5, 1938	Jan. 13, 1938	Union matters, miscellaneous.	Do.
Longshoremen, Los Angeles, Calif.	4,000	Mar. 14, 1938	Mar. 23, 1938	Miscellaneous	Government arbitration.
Marine clerks and longshoremen, Los Angeles, Calif.	3,300	Jan. 1, 1939	Jan. 4, 1939	Wage increase, hour decrease.	Government conciliation.
Longshoremen and warehousemen, San Francisco, Oakland, Alameda, Calif.	5,000	Feb. 24, 1939	Feb. 26, 1939	Sympathy	Do.
Matson Navigation Co., seamen, San Francisco, Calif.	1,050	Mar. 24, 1939	Mar. 29, 1939	Miscellaneous	Do.
Luckenbach Steamship Co., seamen and longshoremen, Portland, Oreg.	1,500	May 1, 1939	May 16, 1939	Discrimination	Private arbitration.
Dock checkers, San Francisco Bay area, California.	5,150	June 14, 1939	June 27, 1939	Miscellaneous	Government arbitration.
Steam schooners, firemen and sailors, Pacific coast ports.	1,250	Nov. 8, 1939	Nov. 18, 1939	Wage increase	Government conciliation.
Dock checkers, San Francisco Bay area, California.	4,500	Nov. 10, 1939	Jan. 3, 1940	Closed or union shop.	Do.
Steam schooners (47), Pacific coast ports.	1,330	Oct. 5, 1940	Dec. 4, 1940	Wage increase	Do.
Consolidated Steamship Co., Port Hueneme, Calif.	1,100	Jan. 2, 1946	Jan. 17, 1946	Job security	Private arbitration.

See footnotes at end of table.

Work stoppages involving 1,000 or more workers in the water transportation industry, Pacific coast, 1934 to 1947—Continued

Employer(s) and/or occupational group(s) involved	Workers involved	Approximate date stoppage—		Major issue(s)	Settled by—
		Began	Ended		
Employers' Association of the Pacific Coast, longshoremen, Los Angeles, Calif.	1,000	June 17, 1946	June 18, 1946	Wages and hours, miscellaneous.	Parties directly.
Waterfront Employers' Association, Los Angeles and Long Beach, Calif.	4,050	July 12, 1946	July 13, 1946	Strengthening bargaining position.	Do.
Waterfront Employers' Association longshoremen, Seattle, Wash.	2,500	July 15, 1946	July 15, 1946	Shop conditions and policies.	Government conciliation.
Waterfront Employers' Association San Francisco, Los Angeles and Long Beach, Calif.	11,950	Aug. 1, 1946	Aug. 1, 1946	Strengthening bargaining position.	Do.
Maritime strike, Nationwide.	[2] 27,000	Sept. 5, 1946	Sept. 20, 1946	Wage increase	Do.
Maritime strike, 21 States	[2] 30,800	Oct. 1, 1946	Nov. 23, 1946	Strengthening bargaining position. wages and hours.	Do.
Waterfront Employers Association, longshoremen and checkers, Puget Sound area, Washington.	2,150	Nov. 23, 1946	Dec. 8, 1946	Job security	Do.
Maritime strike, 12 States	[2] 1,020	June 16, 1947	June 19, 1947	Wages and hours, miscellaneous.	Do.
Alaska Steamship Co., Seattle, Wash.	1,160	Aug. 11, 1947	Aug. 20, 1947	Recognition	Do.
Waterfront Employers' Association, Los Angeles and Long Beach, Calif.	2,700	Oct. 1, 1947	Oct. 7, 1947	do	Private arbitration.
Waterfront Employers' Association, stevedores, San Francisco, Calif.	2,350	Nov. 7, 1947	Nov. 7, 1947	Shop conditions and policies.	Parties directly.

[1] Not reported.
[2] Number of workers idle in California, Oregon, and Washington.

Part II. The Present Relationship (June 1948)

A. WEA and the ILWU

The award of the National Longshoremen's Board dated October 12, 1934, established the foundation for the collective-bargaining relationship between WEA and the ILWU. The original award has been amended nine times. In addition, the contract expressly provides that all interpretations and arbitration awards rendered under the contract shall become a part of it and remain so until deleted by agreement of the parties or by subsequent arbitration. It appears that this incorporation in the contract of all prior awards has built up a formidable body of common law. Partly due to this, arbitration proceedings have become highly formal and legalistic.

There are altogether 12 contracts between WEA and the ILWU. Of course the longshoremen is the largest and most important group covered, but the checkers, carloaders, and dock workers are covered in subsidiary contracts, and there is a steam schooner supplement. Due to the fact that the coast longshore agreement is the most important and basic one, it sets the pattern for the others and its negotiation is considered of utmost importance by the parties.

The coast agreement covers such customary matters as definition of type of work involved, number of hours that constitute a day's and week's work (6-hour day, 30-hour week), basic rates of pay, overtime rates, provision for payment of skill differentials and extra pay for handling penalty cargo, holidays, vacations, discipline, preference of employment and operation of the hiring hall, and the grievance procedure.

Because of their critical importance in the relations between the parties, the operation of the hiring hall and related matters will be discussed in part III.

Wages of west coast longshoremen

In October of 1934 the National Longshoremen's Board set the basic straight-time hourly rate at 95 cents, which was then the rate paid on the Atlantic coast. However, a basic 6-hour day was established on the Pacific coast, with time and one-half to be paid for all hours over 6 worked between 8 a. m. and 5 p. m. and all night, holiday, and week-end work. Since then, although wages have never been determined jointly on the east and west coasts, there has been a relationship between them. Both parties have considered working rules, penalty rates, and differentials paid on the other coast in adjusting from time to time their own wage structure.

In the years following 1934, the basic wage rate on the Atlantic coast was increased to offset the effect of the 2 hours of extra overtime on the west coast. Atlantic-coast workers received 5-cent hourly increases in October 1936, October 1937, and October 1938, while the Pacific-coast rate remained unchanged. The 1938 increase was then offset by a similar increase on the Pacific coast in February 1941, which was the result of 15 months of negotiation and is the only increase which did result from direct negotiation of the parties. This left a differential of 10 cents per hour.

In October 1941, the Atlantic coast received a wage increase of 10 cents per hour. This was matched in February 1942 on the Pacific. In November of that year the Atlantic coast was again raised by 5 cents per hour. The Pacific-coast rate was raised a similar amount, as a result of a War Labor order in August 1945, retroactive to October 1944. Despite the time lags on the Pacific coast which have resulted from prolonged arbitration procedings, financial loss to the longshoremen has usually been mitigated by making wage settlements retroactive.

In December 1945, arbitrator William H. Davis awarded the 25,000 longshoremen of New York City a 20-percent increase. This increase was granted to longshoremen in the ports of Baltimore and Philadelphia in March 1946. The Fly report,[9] recommending an increase for the west coast, stated—

> Although a clear relationship is evident, the above outline of wage movements on the two coasts indicates that the west coast has tended to lag behind the Atlantic in the time of granting wage increases. At least one important reason for the lag is that whereas Atlantic-coast increases have resulted from collective-bargaining agreements negotiated by the employers and the union (the Davis award is the first exception in 30 years), Pacific-coast increases have generally

[9] See note, p. 13, supra.

resulted from awards of private arbitrators or governmental bodies after prolonged collective-bargaining negotiations have failed. The only basic wage increase negotiated by the parties on the Pacific coast required over 15 months to consummate.

The west-coast employers have taken the position that there is no logical reason why there should be parity between the Atlantic- and Pacific-coast rates. In addition to the basic 6-hour day worked by west-coast longshoremen, employers also contend that the workers have further wage advantages resulting from additional pay for skill differentials, such as an additional 10 cents per hour for winch drivers, which is not paid in New York, and a more extensive list of penalty cargoes.

The Fly report states:

> By no means all of the advantages are in favor of the Pacific coast. For example, the standard gang in New York is 20 men, whereas in San Francisco it is only 16. Moreover, most of the differences, such as the skill differentials and penalty cargoes, existed for years before the war. It can, therefore, be safely assumed that they were given such consideration as they merited by the parties, previous arbitrators, and governmental bodies like the War Labor Board.

The union, on the other hand, has consistently fought for parity with the Atlantic coast wage rates.

According to a joint statement made by the Waterfront Employers Association of the Pacific coast and Pacific American Shipowners Association, which was issued on September 20, 1948, the bay area longshoremen had average weekly earnings of $74.93 during the first half of 1948. The average hourly rate was said to have been $2.18 for the same period. During this period, the basic straight-time hourly rate was $1.67. The difference between this figure and the $2.18 actually paid is explained by a large proportion of overtime plus penalty rates and skill differentials. These average earnings are lower than the actual earnings of longshoremen desiring full employment, due to the fact that the registered list of longshoremen includes a substantial number who supplement other earnings by occasional work on the water front. The Fly report duly recognized that the basic hourly wage rates paid to longshoremen were comparatively high but stated they were due primarily to three factors: (1) Casual nature of the industry, (2) the strenuous nature of the work, and (3) the high degree of occupational hazard.

Grievance machinery and arbitration under the longshore contract

The grievance machinery provides for five steps. The dispute goes from the longshoreman to the gang or dock steward of the union to the foreman. Many of the disputes are settled at this first step. If, however, the foreman and the steward fail to agree, then the foreman, through the employer, notifies a representative of WEA. The longshoreman or the steward, in turn, notifies a business agent of the union. The union business agent may already have intervened before the dispute is discussed with the foreman. The union and association representatives then discuss the dispute directly.

Provision is made for a so-called emergency step. By the terms of the agreeemnt work stoppages are prohibited, but the grievance machinery makes provision for them. If a work stoppage should

threaten or develop, the local port agent, a direct representative of the impartial chairman, is on hand to visit the job immediately and give a ruling. He then makes a written interim ruling, copies of which he gives to both management and union representatives. If either party disagrees with the local port agent's ruling, he may appeal to the local joint labor relations committee and demand that the dispute be scheduled for discussion there.

If the dispute is not settled in the second step, it is referred to ILWU and WEA officials and is then brought up at the next meeting of the local joint labor relations committee, which is made up of an equal number of representatives of the union and WEA.

In the fourth step if the joint labor relations committee has failed to agree, then a form is filled out, setting out all agreed facts of the dispute and the claims of the man and the employer. This form is sent to the members of the coast joint labor relations committee. The dispute is then discussed in this committee and settlement is sought. This committee is also made up of an equal number of representatives of the union and WEA. The only difference here is that the impartial chairman may sit in at meetings, depending on the desires of the parties. When he sits in he may cast the deciding vote in the event of a deadlock, except that any party may require a full arbitration whenever the issue creates a precedent.[10]

In the fifth and final step either side may appeal for formal arbitration before the impartial chairman. The impartial chairman is a third party selected by the United States Secretary of Labor, after consultation with the parties. He serves for the term of the contract and his term may be renewed by mutual consent of both parties. The decisions of the impartial chairman, called awards, are binding on both parties, and thereafter become a part of the contract itself.

The coast labor relations committee has the power and jurisdiction to determine any question involving the interpretation of the agreement and to decide any dispute arising thereunder. In addition, the coast committee has the power to set aside any decision or other action by any port labor relations committee and has authority to establish uniform coast working and dispatching rules for any or all of the ports. The port labor relations committees, subject to the control and direction of the coast labor relations committee, have the authority to determine the organization of gangs and the methods of dispatching.

Port agents are selected by the impartial chairman, and there is one for each of the four districts of Puget Sound, Columbia River, northern California, and southern California. Expenses and salaries of the impartial chairman and the port agents are borne equally by the parties. The impartial chairman's instructions to port agents are set forth in a document entitled "Instructions to Arbitrator's Agents," as amended and revised April 21, 1948. It appears that in general the port agent's authority is limited to (1) questions of immediate safety, (2) questions of minor consequence and local significance only, and

[10] Although the contract provides for participation by the impartial chairman in meetings of the coast committee, this right has not been exercised recently by him for the reason that the parties are so far apart that mediation is futile and such participation was believed likely to endanger his position as an impartial arbitrator.

(3) fact finding for the impartial chairman. The opinion was often expressed that practically everything is construed as establishing a pattern or precedent and hence of coast significance.

The mortality rate of port and coast arbitrators has been exceedingly high. Since Judge M. C. Sloss became the first coast arbitrator, in 1934, there have been five successors. Judge Sloss resigned in 1936. The Secretary of Labor declined to appoint another arbitrator since the parties could not agree on the desirability of the office. So from the close of the 1936–37 strike until October 1938 the coast was without an arbitrator. During the 1938–39 negotiations, however, an agreement was reached to reestablish the office, and Wayne Morse, then dean of the University of Oregon Law School, now United States Senator, was appointed. In addition to Judge Sloss and Wayne Morse, such well-known men in the labor field as Stuart Daggett, Harry Rathbun, Clark Kerr, and Arthur Miller have attempted to deal with the disputes between ILWU and WEA. When it is further considered that the arbitration machinery of the contract was suspended during the time the Maritime Industry Board was functioning, from 1942 to the fall of 1945, the arbitrator's short tenure of office is all the more apparent.

Paul Eliel, public member and chairman of the Pacific Coast Maritime Industry Board, in a statement issued July 20, 1942, said:

> The 8 years that have elapsed since 1934 have been years of turmoil, of struggle, and strife in every port on the Pacific coast. Innumerable stoppages prior to the outbreak of the war, and particularly before December 1940, made all operation of water-borne commerce uncertain. Prolonged strikes in single ports and over the whole coast only tended to widen the breach between workers and their employers. The fact that during this period of 8 years hardly a day passed but what some stoppage took place in violation of the contract—stoppages either on a single ship, against a company, or against an entire port—only served to highlight the precarious foundation upon which efforts to establish peaceful and enduring relations had been built.

Conditions improved little or not at all when the war was over. Just prior to the end of the war the coast arbitration machinery was placed back in action and Stuart L. Daggett was named coast arbitrator. He remained in office until December 1945, when he, as two of his predecessors had done, resigned in protest over refusal to accept his award. Harry Rathbun served from January 1946 until May 1946 and Clark Kerr from December 1946 until October 1947, when he resigned under pressure following a decision unfavorable to the employers. Arthur Miller started to serve in the month of October 1947 and was relieved by the union on June 15, 1948, on the basis of termination of the contract.

Contract compliance

It is said that in many instances where the arbitrator's award is finally accepted it is only due to threats by the arbitrator to take some alternative action that would be more undesirable to the parties concerned. One well-known authority in the industry said that both parties have sought to get around the arbitrator's awards, but the only distinction between them was that the employers are more subtle in the methods they employ. Despite the fact that California law provides for recourse to the courts for the enforcement of arbitration awards neither party has, up to the present time, seen fit to resort to such action.

Contract compliance and acceptance of arbitration awards has been a continuing source of hostility between the parties. Each accuses the other of continually gnawing away at the level established by the contract, and of willfully flouting the terms of arbitration awards when it suited his purpose to do so. The employers have proposed various means of assuring contract compliance, including empowering the arbitrator to award compensatory damages. The union has proposed that no work stoppage be considered a breach of contract, leaving each party free to employ a test of economic strength at any time.

Such a development would not, in fact, be such a radical departure from past practice as might be supposed in an industry which has been under firm contractual commitment for 14 years. It has long been the policy of several of the maritime unions to invoke economic force to gain concessions excluded by the contract. On December 2, 1935, the Maritime Federation of the Pacific passed a resolution adopting "job action" as an approved instrument of union policy. According to the Waterfront Worker, published by the San Francisco longshoremen, the resolution called for the following:

> Whereas we believe and have demonstrated on numerous occasions that job action rightly used with proper control has been the means of gaining many concessions for the maritime workers on the Pacific coast; and
>
> Whereas job action is and should be action taken when any maritime group desires to gain a concession without openly resorting to a strike; and
>
> Whereas in order to eliminate confusion and to insure coordination in the best interest of all maritime groups concerned it's apparent that an organized procedure for job action must be laid down by this convention: Therefore be it
>
> *Resolved*, That the term "job action" shall mean only action taken by any maritime group in attempting to gain from their employers some concessions not specifically provided for in their respective agreements or awards; and "job action" shall also mean action to enforce the award or agreement to the best interests of the maritime group concerned, or to prevent employers from violating agreements or awards.

In the same issue the Waterfront Worker stated:

> We resort to job action on individual ships or docks when and where we are not prepared or the time is not ripe to organize and gain support for striking an entire steamship line, a port, or a whole coast.

Apparently job action is not used as widely at the present time as it was during the middle thirties, but it is very difficult to get a true picture of just how serious the problem is now for often such events are never brought to the port agent's attention. Those dealing with such matters state—

> Often the workers institute job action some time during the wee hours of the morning. It is impossible to contact employer and union officials and the port agent at such a time of morning. There is great urgency to get the ship out and so the employer finds it "easier" to make the concession that the workers are demanding.

In most instances, the operator feels that if he makes the concession he will be able to break even on the job or may even make a small profit, whereas if he repels the workers' requests he will more than likely suffer a financial loss. (Most of the stevedoring jobs last only

a day or so and a delay or interruption of work for only a few hours is a very costly affair.)

Job action and illegal stoppages are employed for a multitude of reasons—many of which are not ordinarily thought of as strictly trade-union matters. Some of the more recent and unusual ones include the following:

In November of 1945 the ILWU announced that there would be a 1-day work stoppage for the entire coast on December 3, 1945, in an effort to get the Government to take affirmative action in returning troops from overseas. Stuart Dagget, the coast arbitrator, passed down a decision on December 1 that if such a work stoppage should take place it would be illegal and in violation of the contract. On December 3, 1945, the work stoppage took place and Mr. Dagget resigned to protest the union's action.

At Coos Bay on April 12, 1946, a Dutch ship was tied up and eventually forced to sail without her cargo when the longshoremen refused to work. They notified the immigration officials that no loading would be done until they allowed the Chinese crew, employed on the ship, the privilege of coming ashore.

As a protest against congressional action on price control the coast was tied up from 12 noon, June 13, 1946, until 7 p. m. that night. There are many other examples of such political strikes. Instances of job action and illegal stoppages concerning such things as size of sling loads, speed of operations, and jurisdictional disputes with other unions or sympathy strikes are also common. The WEA asserts there have been 1,399 recorded work stoppages by the ILWU alone since 1934, in addition to many of which there is no record.

Where the work stoppage involves issues between the employer and the employees, only the question of contract compliance or interpretation is involved. While frequent work stoppages over such matters seriously disrupt the industry, the development of a healthy collective-bargaining relationship which includes adequate adjustment machinery should relieve that condition.

However, where the work stoppage is political in character and intended to bring pressure to bear upon some agency or official of Government and does not involve a dispute between the parties over their relationship, quite a different problem is presented. It is a problem frequently faced in the maritime industry, for which collective bargaining can supply no determinative answer. Even if the proposition that political activity by unions is a normal and proper incident of democratic government be conceded, it does not follow that one industry should bear the brunt of pressure tactics by the union intended to force action by some governmental agency over which the industry has no control. A strike to force congressional action on price controls is no more proper than would be a lock-out to force the Supreme Court to reverse the overtime-on-overtime decision. Collective bargaining faces an insurmountable barrier if it must harmonize the opinions of all parties on each political question before the country.

B. PASA AND THE SEAGOING UNIONS

A brief summary of the more important provisions of recent contracts between PASA and the seagoing unions follows:

1. *Marine Firemen's Union, independent.*—The basic contract is dated July 16, 1946, with subsequent amendments as to wage scales. It covers all unlicensed engine-room personnel employed on the ships of 34 lines. The employers agree to give preference of employment to members of the union, and to secure their unlicensed engine-room personnel through the offices of the union. The union recognizes the right of the employer to reject any man furnished who is considered unsuitable or unsatisfactory. In such case, the union will furnish a replacement, the employer states in writing the reasons for the rejection, and the union is free to take the matter up with the port committee for decision if it so desires.

Grievances and disputes are to be adjudicated by a port committee of six members, with a referee appointed by the port committee or the Conciliation Service. The present referee is Arthur C. Miller, who also serves as impartial chairman under the coast longshore contract. Representatives of the port committee are appointed to serve in Seattle, Portland, and San Pedro, but are powerless to render any decision involving a basic interpretation of the agreement. Decisions of the referee are binding and there is a no-strike or lock-out clause.

The contract sets out in detail the current wage rates, hours of duty, overtime, and elaborate working rules which specify which jobs each man may be required to do as part of his regular work assignment and which jobs carry overtime pay.

The union-operated hiring hall uses the shipping list and rotary hiring which has been quite common in the maritime industry. The shipping rules permit the men to go back on the same ship if they wish if the vessel is tied up for 10 days or less. In other cases, the men register at the bottom of the shipping list after each trip and are assigned jobs in rotation. The union roll includes book men and permit men, and the intake of new men is regulated by the membership. An applicant for membership must receive the approval of the crews with whom he has sailed.

With reference to operation of the grievance procedure, Mr. Malone, the union president, asserted that at present the procedure is too slow and too compromising. It was his opinion that PASA intentionally delays the settlement of grievances until a number accumulate so that they can then bargain one against another instead of settling each on its own merits. The only time PASA will settle a grievance promptly is when the union threatens to tie up a ship, according to Malone. Since the contract pledges no work stoppages, this is a procedure exposing the union to severe liability under the Taft-Hartley Act.

The contract requires that the port committee shall meet at the request of either party within 24 hours, but places no limit on the time which may be consumed in deliberation. Mr. Malone did not

complain that the decisions of the referee were not fair and impartial, but did complain that the referee was overburdened with work and therefore unable to give prompt consideration to any but the most pressing cases.

Mr. Malone indicated that, although most of the lines referred all grievances to PASA for settlement, a few of the companies made at least initial efforts to settle them before reference to the association. The union feels that settlement is more prompt and is more likely to be based upon the merits where the company and the union negotiate directly. The danger inherent in this method, according to the employers, lies in the fact that it is always cheaper for the operator to accede to the union's demand, even though it be an improper one, than to run the risk of tying up a ship. This leads to building up practices and precedents that may conflict with the contract and result in inequality of working conditions and all the abuses of whipsaw tactics that the association was designed to prevent.

It may also be significant that these independent settlements have most frequently occurred with smaller and more recently organized firms. Such firms are less able to withstand union pressure and would be more seriously hurt by a stoppage. Also because of the charter parties under which these companies operate Government-owned ships, monetary concessions can be granted which will be partly absorbed by the Government. On the other hand, there is evident a feeling of dissatisfaction with present arrangements and new management may be seeking to develop a better basis for union-management understanding in the future.

Despite the relatively good relations that have existed between the MFOW and PASA, Mr. Malone is frank to state that there has been little or no good-faith bargaining between the parties for many years. Both parties have placed too much reliance upon Government agencies and arbitrators. The bargaining sessions are little more than a formalized statement by each side of its position, with no genuine attempt being made to reach a mutually satisfactory solution. Genuine bargaining is made more difficult by outside factors over which neither party has control. The union simply cannot afford to accept a wage settlement less than has been won on the east coast for the same classifications, nor can it afford to sacrifice its relative position with other west-coast unions. On the other hand, PASA cannot make any concessions to one union that it is unwilling to make to all. This results in bargaining sessions that are somewhat like shadow boxing, with the union unwilling to state its minimum requirements until other settlements have been reached, and the association unwilling to grant any concessions until it knows what it will have to give the other unions. With a number of contracts expiring simultaneously, and each dependent upon the other as well as upon the east-coast pattern, bargaining becomes tremendously complex and there is a tendency to flatly state a position and refuse to recede.

Despite these difficulties, Malone would prefer to negotiate one contract for the industry than to maintain separate contracts with each firm. Uniformity of wages and working conditions is as important to the union as it is to industry. Malone does not espouse the "class struggle" doctrine followed by Bridges and Bryson and recognizes that a prosperous industry promotes the welfare of all parties.

This union is most firmly convinced that the closed shop and union hiring hall are basic and essential.

2. *Sailors Union of the Pacific, AFL.*—The basic contract runs from October 1947 until September 1948, with provision for semiannual wage review [11] and automatic renewal in the absence of notice of termination. Many of the contract clauses are identical with those in other maritime contracts. There is an elaborate and detailed set of working rules with complex specifications as to what work may be required as part of the regular job and what carries the overtime rate. While the particular provisions of this character in the SUP contract are directed to work assignments of the unlicensed deck employees, the general nature of the restrictions is common in all the maritime contracts. Provisions of this character not only serve to very substantially increase wage costs, but are also a most prolific source of disputes. One employer described the basic wage as the "club dues" he was required to pay for the privilege of having the seamen in his employ, with the actual work done by the men compensated in the form of overtime. The monthly overtime bill of this employer is more than 50 percent of the basic wage cost, and most of this overtime pay is compensation for performing unpleasant tasks during the regular working hours, not pay for extra hours. For example, the SUP contract requires additional pay for such work as the following, even though performed during the regular working day: Securing cargo; handling hatches, strongbacks; removing and stripping tank tops and gratings preparatory to or upon conclusion of discharging or loading cargo; cleaning tanks used for transporting fluid cargo; cleaning up major oil spills; going on the dock to handle, connect, or disconnect hose; cleaning bilges; cleaning holds in which penalty cargo has been carried; laying dunnage; handling livestock; painting enclosed alleyways, storerooms, messrooms, and the like; handling mail or baggage; using carpenter's tools; using spray guns—and so on through a considerable list.

Much of the work done by the engine room crew and the steward's department is likewise compensated by extra payments even though performed during the regular work day. Several employers indicated that a contract calling for a very substantial wage increase and providing that the men be required to perform any work assigned during the regular workweek would be a distinct improvement.

The "Lundeberg Formula"

The provision of the SUP contract which has received the most publicity is the hiring clause, or so-called Lundeberg formula. The current contract was negotiated after passage of the Taft-Hartley Act made preference of employment clauses illegal. Previous contracts contained the usual clause requiring the employers to obtain their men exclusively from the union hiring hall. In negotiating the

[11] In April 1948 a small wage increase was granted to achieve parity with east-coast rates. At the same time, the union agreed to elimination of the provision for semiannual wage reviews in the future. Both parties recognized the necessity for a period of wage stability for the health of the industry.

new contract, the parties were confronted with the same problem of conforming the hiring practices to the new law which now threatens to disrupt relations between employers and other maritime unions. A mutually satisfactory solution was reached between SUP and PASA without strike, lock-out, injunction, arbitration or Government intervention. In this instance, as in others between these parties, the processes of collective bargaining were crowned with success—a rare example of collective bargaining achievement in this chaotic industry. The clause agreed upon is as follows:

> The employers agree in the hiring of employees in the classifications covered by this agreement to prefer applicants who have previously been employed on vessels of one or more of the companies signatory to this agreement and the union agrees that in furnishing deck personnel to employers through the facilities of their employment office it will recognize such preference and furnish seamen to the employers with due regard thereto and to the competency and dependability of the employees furnished; when ordinary seamen with prior experience are not available, the union will in dispatching seamen prefer graduates of the Andrew Furuseth Training School.

It is readily apparent from the language of the agreement that both parties contemplated no change in past hiring practices. The union hiring hall continues to operate just as it always had in the past. It is true, of course, that the employers have not bound themselves to obtain crews from the union, but as a practical matter there is no other source from which seamen can be obtained. The union has had a closed shop long enough that virtually no one with prior experience on vessels of these employers is not a union member. Since the entire west coast industry is party to the contract, everyone who has ever sailed for a west coast line is eligible, but these include few who are not union members.

Continued reliance on the union hall is assured by the fact that it is a violation of union rules for any member to ship off the dock or through a company employment office. Provision for a suitable number of additions or replacements to the labor pool is made by accepting graduates of the Andrew Furuseth Training School, which is jointly supported by the city of San Francisco and the SUP. The union furnishes the instructors and instruction and graduates invariably become union members.

It is not the function of this committee nor the purpose of this report to determine whether this hiring clause conforms to the law, or to suggest whether or not this formula could properly be adopted throughout the industry. The recent decision in the Great Lakes case indicates that, under certain circumstances, the NLRB will look behind the wording of a demanded contract to find discrimination in practice.[12] There is no question that, under this clause, only union members are being hired.

[12] In the matter of *NMU-CIO, et al.* and *The Texas Company, et al.*, N. L. R. B. case No. 13–CB–19, released August 19, 1948. "The hiring hall provision in question does not on its face require that the companies discriminate in favor of N. M. U. members * * *. It is thus contended by the respondents that there is nothing on the face of the agreement which contemplates a discrimination in violation of section 8 (a) (3). We do not pass upon whether the hiring hall provision would be unlawful absent evidence that in supplying the companies with personnel, N. M. U. discriminated against nonmembers. The record establishes, and we find, that in the operation of the hiring halls in question, such discrimination against nonmembers did exist, and that the respondents and the companies contemplated that such discrimination would continue if the hiring hall provision was included in the 1948 agreement."

On the other hand, other maritime unions have rejected the clause on the ground that it creates an open shop which leaves union security at the mercy of the employers. The employers themselves, who have shown no disposition under this contract to attempt to hire nonunion crews, recognize that the clause probably does not offer any final solution and may expose them to the ravages of interunion rivalry. If, for example, a group of NMU members, selected for prior experience on west coast lines, should apply for employment it is difficult to see how they could be refused without violating the law. Yet to employ them would almost certainly provoke a strike of SUP men. This is, of course, only a hypothetical problem at the present time, but might present a difficult situation at some time in the future when employment opportunities on the east coast were shrinking.

Lundeberg himself describes the formula as giving the SUP a closed shop in fact if not in name. He does not believe that the same formula would be acceptable to some of the other maritime unions because, he says, their Communist leadership confuses issues and creates dissident factions within the union that can only be controlled where the union leadership maintains very tight control over job opportunities of the individual members.

The SUP contract provides for a grievance procedure much like that under the MFOW contract. There have, however, been no grievances carried to arbitration. The union itself, although agreeing to an arbitration provision in the contract, opposes the use of it. It makes a practice of attempting to settle its disputes directly with the port captain of the company involved; failing here it goes to the port committee. According to Lundeberg, SUP grievances are settled promptly and fairly because the SUP confines itself to "business unionism" and does not attempt confusion through collateral issues of a political nature.

On straight trade union business, Lundeberg feels that collective bargaining with PASA can be successful—that is that a common meeting ground can be found for a mutually satisfactory adjustment of differences without arbitration or government intervention. However, Lundeberg feels that generally there has been so much reliance on government intervention that the collective bargaining process has been seriously weakened and trade unionism is not fulfilling its proper function.

3. *National Organization of Masters, Mates, and Pilots, AFL.*—The basic agreement is dated October 2, 1947, and runs until September 30, 1948, with semiannual wage review,[13] and is automatically extended from year to year in the absence of notice of termination. The American-Hawaiian Steamship Co. is the only major west-coast line not covered by the agreement.[14] Employees covered include only licensed deck officers, including the master.

The agreement is significant for several of its provisions. Although the union is recognized as the representative for collective bargaining

[13] Like the SUP, the MMP agreed in April 1948 to eliminate the midterm wage review in the future.

[14] The NLRB has conducted four representation elections among the licensed officers employed by American-Hawaiian, in each of which the majority declined union representation.

of all licensed deck officers, the agreement does not bind the employers to prefer union members in filling vacancies except in the Alaskan trade,[15] and even here the employer is given the right to pick his own employees from among the union membership. The union has at various times in the past made urgent demands for preferential hiring, and this was one of the issues during the 1936–37 strike. The agreement of 1935 had specifically provided that employers should be free to select licensed officers without reference to union affiliation. The employers have continuously resisted every attempt of the union to secure preference of employment in the offshore trade, on the ground that the ship is analogous to a branch factory with the licensed officers the shipowner's executives at sea. The shipping industry is surrounded by a maze of legislative regulations, both foreign and domestic, which impose upon the owner heavy responsibilities, many of which are actually borne by the ship's officers. Both the ship and its crew are under the sole direction of the ships' officers a sea. The employers have always contended that they could not agree to limit themselves in any way in the selection of these officers. Except in the Alaskan trade, the west-coast operators have not deviated from this position, although most Atlantic- and Gulf-coast operators now have preference of employment contracts covering licensed officers in both the deck and engine departments.

Another provision of passing interest in the basic agreement recognizes that, in certain restricted situations, the individual officer and his employer are free to reach an agreement on wages. The contract sets out the minimum wage scale for each officer on each class of vessel, but where the master is transferred from a vessel of higher classification to a lower class vessel of the same employer, or where his wage rate is already higher than the contract minimum, then the individual and his employer are free to reach their own agreement. The provision is not of particular significance except as an indication that the parties recognize the direct individual employer-employee relationship and the right to negotiate concerning it so long as any agreement reached is not inconsistent with the contract. This is in sharp contrast with the attitude of some of the other maritime unions which seek to completely insulate the employee from his employer.

The contract includes a no strike or lockout clause, and provides for the adjustment of any dispute by a licensed personnel board with equal representation and provision for appointment of an additional member to break a deadlock. Such grievances as have arisen have most frequently been adjusted as the result of direct telephone communication between the parties and resort to the board has been infrequent. The contract provisions pertaining to overtime and work assignments are less elaborate and complex and have given rise to fewer complaints than those covering the unlicensed personnel.

According to the employers, relations with the MM&P have been generally quite satisfactory. It is felt that both the union officers and, generally, its members are men of integrity and responsibility. That feeling of suspicion, distrust, and animosity which characterizes so much of the union-employer relationship in the industry is refreshingly absent here. The one serious obstacle to agreement in the past has been the preference of employment issue. The ships' masters and some of the officers are probably within the definition of supervisor in the Taft-Hartley Act and hence not includible within a unit of employees with whom collective bargaining is mandatory. However, neither PASA officials nor individual employers indicated any inclination to withdraw recognition from the union.[16]

[15] The preference for union members even in the Alaska trade was eliminated from the contract by negotiation in April 1948.

4. *National Marine Engineers Beneficial Association, CIO.*—The basic contract between PASA and MEBA is dated November 17, 1946, and was terminated by action of the parties on June 15, 1948. It covers licensed engineer officers on ships of 34 west coast lines operating in the Alaska, intercoastal, and offshore trades. Many of the provisions are almost identical with the MM&P contract. The union is recognized as the sole representative for collective bargaining, but preference of employment is given union members only in the Alaska trade. This preference was won by the union before the companies engaged in the Alaska trade became members of the association. The union has vigorously demanded preference in all trades. Employers have steadfastly refused to limit their freedom in selecting licensed officers and have twice withstood coast-wide strikes over this issue, despite the fact that preference of employment has been won by MEBA on the Atlantic and Gulf.

Under the Taft-Hartley Act definitions, presumably the chief engineer and at least some of his assistants are supervisors excluded from coverage of the act. Hence a preference clause as to them would not be in violation of the act. However, the employers have always resisted extension of the preference on the ground that officers are part of management, and now seek to eliminate it altogether in the belief that, since similar provisions are being eliminated under compulsion of the law from the agreements of unlicensed personnel, sound policy requires that the provision also be eliminated from licensed officer agreements, where it is more highly objectionable to the employers.

Relations between MEBA and PASA, while not wholly satisfactory, have not been characterized by the bitter animosity that seems to pervade every contact between the employers and the MC&S and ILWU. MEBA, being affiliated with the CIO, has received the support of the latter two unions and has consistently supported them in their demands. The west coast leadership of the union appears to be somewhat vacillating and inclined to accept the leadership of Harry Bridges on trade union disputes, although not necessarily sympathetic with his political ideology.

5. *National Union of Marine Cooks and Stewards, CIO.*—The basic agreement between MC&S and 34 west coast employers is dated November 26, 1946. It was terminated by the parties on June 15, 1948.

The agreement gives preference of employment to union members for all of the steward's department except chief stewards on class A and class B passenger ships. The union maintains its own hiring hall,

[16] To our regret, neither Captain May, president of the union, nor any ranking union official was available for interview at the time this survey was undertaken. Therefore, factual observations and expressions of opinion herein are based upon study of the contract and data supplied by the employer association.

operated under the rotational hiring system, through which all employees must be obtained except that chief stewards may be selected by the employer from a list of those available prepared by the union.

The grievance procedure calls for a standing port committee with equal representation and a permanent referee whose decisions shall be binding. The parties pledge no strikes or lock-outs. There are representatives of the parties in other west coast ports to hear and adjudicate disputes, but they are without power to render a final decision involving a basic interpretation of the contract.

The president of the union, Hugh Bryson, has stated that the grievance machinery is adequate and that disputes are, for the most part, reaching fairly prompt settlement. He complains, however, that PASA officials have a tendency to let the grievances accumulate and then try to balance one against another instead of deciding each on its merits. Like Malone of the MFOW, Bryson testified that it was necessary to call a strike, or at least threaten to do so, in order to get prompt settlement of disputes. Under the Taft-Hartley Act, such a work stoppage in breach of contract may impose severe liability upon the union.

Bryson states that much better results are obtained with those companies that attempt settlement of their own grievances than when the company involved turns the matter over to PASA for handling. He mentioned specifically Pacific Far East Line and Matson as companies that do a good job in handling grievances. It is perhaps significant that both of these companies regard employee relations as an extremely important part of management and both employ specialists in industrial relations. Matson is, of course, also one of the most influential members of PASA. Mr. Cuffe, president of Pacific Far East, while a director of PASA, prefers to develop a more direct employer-employee relationship than is possible when all labor policy is executed by the association. PFE makes a definite effort to personalize its labor relations. According to Mr. Cuffe, there is an inescapable tendency to compromise the settlement of grievances when they have been referred to the labor relations committee—a tendency to accept the union demand in one case in return for some union concession on another. PFE has adopted the policy of settling each dispute individually on its merits by looking first at the equity of the situation and only secondarily at the contract language.

The result has been prompt settlement of grievances without reference to arbitration and with only occasional reference to the joint labor relations committee. There have been no work stoppages directed against the company. Another advantage, as Mr. Cuffe sees it, is that direct handling of grievances bypasses, to some extent, at least, what he termed "obstructionist tactics of the Communist leadership" of some of the maritime unions. It is somewhat surprising to find Mr. Bryson, who is often accused of following the Communist line, approving this policy.

Two other provisions of the old contract raise issues of interest in this report. The contract includes in the bargaining unit the chief steward, who is head of the steward's department. In the current negotiations, PASA at first took the position that the chief steward is a supervisory representative of management, not properly represented by the same union which speaks for the men he supervises. The union is understandably reluctant to accept this argument. The problem is complicated by the fact that disputed claims for overtime constitute a very large proportion of the grievances from the steward's department. It is the chief steward who orders the overtime work, initially approves the claim, and is usually the only management representative in a position to say whether the claim is a proper one. Yet the chief steward, being a member of the union, is subject to the discipline of those whom he is supposed to supervise. There has yet to be an instance of a chief steward testifying on behalf of management in an arbitration hearing.

On the side of the union, however, it must be said that, except on the larger passenger vessels, the chief steward does his share of the actual physical work of the department and his supervisory activities are somewhat limited. Moreover, he has not traditionally been regarded or treated as a part of management. The overtime problem is a very real one and not easily met so long as the stewards owe their primary allegiance to the union. But the employers, by their failure in the past to give chief stewards the authority and dignity of management, drove them into the union. Their past conduct is, of course, no answer to the present problem. If management is now willing to include in its ranks the stewards, can it do so while they are yet members of the rank and file union? But before the stewards can be asked to give up the security that has been provided by the union, should not management offer some more tangible evidence that they will, in fact, exercise management functions?

Before the strike occurred on September 2, 1948, the employers had dropped this demand and conceded that any new contract would cover all employees previously covered. It is not a strike issue.

The old contract provides for a 2-week vacation with pay after 1 year of continuous service for any one employer. One of the reasons for adopting this provision was to encourage that continuity of service so desperately lacking in the shipping industry. Partly because of the traditionally casual nature of the employment relation, the character of the seafaring man, and partly because of the rotational hiring system, the provision has largely failed to accomplish its purpose. On some of the larger passenger ships the turn-over is not so great, but in the freighter service there are few men who have remained continuously in the employ of one company long enough to earn the vacation.

In the current negotiations, the union is demanding that vacation rights be earned in proportion to the time worked from the first day of employment for any employer, and that the employers collectively set up a joint vacation fund. Vacation rights would be earned by cumulative employment in the industry irrespective of length of service for any one employer. Such a plan would have the virtue of enabling everyone in the industry to earn a vacation, but would have the vice of completely destroying any incentive to continuous service on any one ship or the ships of one line. The pooled vacation fund would be another step in the process of insulating the worker from his employer.

6. *American Communications Association, CIO.*—As has been previously noted, the marine radio officers are not at this writing officially represented by any labor organization. At the time the last contract was signed, they were represented by the ACA, CIO. Since that time, the group was affiliated briefly with MEBA, CIO, and then with IBEW, AFL. At least a part of the membership has since become affiliated with the American Radio Association, CIO. The Radio Operators Union, AFL, is also seeking to represent the marine radio operators. Appropriate petitions have been filed before the NLRB to have the question of representation determined. Meanwhile, the radio officers operated under a Taft-Hartley national emergency injunction from June 15, 1948, the date of termination of the last contract, until September 2, 1948, when the injunction was dissolved. The radio officers then joined the strike conducted by the ILWU, MEBA, MCS, and MFOW.

The last contract between PASA, representing 35 steamship companies, and the ACA, CIO, representing radio operators employed on ships of the signatory companies, was entered into in September 1945. It has been opened periodically since for wage review and was suspended in the fall of 1946 during the strike. It was terminated by the parties on June 15, 1948.

There are no provisions in the old contract which are significantly different from clauses previously discussed in connection with other maritime contracts. Union members have been given preference of employment and vacancies are filled through the union hiring hall on a rotational system which is specifically recognized by the contract language.

The contract requires that radio operators be treated as officers with respect to quarters and meals, but, like the unlicensed personnel, calls for payment of overtime compensation for performance of enumerated work, even though done during the regular watch. In the past radio operators, while subject to regulation and control of the FCC, have not been regarded as licensed officers. The Eightieth Congress lifted radio operators to the status of full-scale ships' officers by requiring they be fully licensed by the FCC and subscribe to a Government-administered oath to faithfully fulfill their duties (H. R. 1036).

The machinery for adjustment of disputes

The foregoing discussion of contract provisions affecting seagoing personnel reveals that, despite minor variations, the adjustment machinery set up by the various agreements is essentially similar. Each agreement provides for some sort of joint committee with ultimate recourse to arbitration, and each includes a clause by which the parties bind themselves to accept the arbitration award and not to cause a work stoppage. Each agreement provides for local representatives of the parties in west coast ports, but sharply limits the jurisdiction of such representatives. The coast committee sitting in San Francisco is empowered to approve or modify local decisions so that there will be coast-wide uniformity, not only in wages and hours but in application of the working rules and the practices that grow up under the contract as well.

It should not, however, be assumed that the system is as formalized or complex as the contract language would suggest was the original intention of the parties, or that it has been adequate to prevent disturbances in the industry. Both sides feel that the machinery itself is adequate, but that the attitude of the other party prevents its successful operation.

In actual practice, the joint committee is seldom formally convened except as a last resort. Ordinarily, the union delegate will discuss a grievance with a company official. It will then be referred "downtown" where it is discussed, either by phone or personally, by a union official and an association official. Only if settlement is not reached by these efforts is the committee convened. Such flexibility is ordinarily desirable and is much to be preferred where the parties approach the discussions with a sincere desire to reach a mutually satisfactory solution. Where the reverse is true, the result is that the formal committee meets to consider a group of grievances that have accumulated since its last meeting, all of which have been discussed unofficially and informally by at least some members of the committee to no avail. A considerable time may have elapsed since the actual occurrence complained of, particularly if it occurred while the ship was at sea, and usually no records, or only incomplete ones, have been kept in the meantime. This inevitably leads to compromise and expediency, with one claim being traded off against another. The result is not likely to be prompt and equitable adjustment of grievances coupled with a determined joint effort to remove their causes.

Most qualified students of labor relations agree that grievances should be handled immediately, at the lowest level of supervision, with absolute impartiality and fairness in accordance with the equities raised by that individual grievance. Like so many precepts of good labor relations, this is largely inapplicable to disputes between seagoing personnel and management. Traditionally, the ships' officers, who are management's representatives at sea, have not been noted for their farsighted or sympathetic policies respecting the employment relation. In most instances they are themselves now union members and are seldom entrusted by their employers with authority to adjust disputes. It is true that the dispute is carried to the master or senior officer when it occurs, but, generally speaking, he is likely to be more concerned with maintaining discipline and protecting his ship and cargo than in determining the equities of the situation and making an enduring adjustment. If his decision is unfair or unwise, it must nevertheless be enforced until the ship returns—often a considerable period of time during which an insignificant injustice may grow and rankle to the point where equitable adjustment on the merits becomes most difficult. Lesser officials on the ship such as the bo'sun, the quartermaster, the watch officer—the direct and immediate foremen—are seldom given the real authority to make adjustments, which encourages a sense of responsibility as representatives of management.

Matters involving a basic interpretation of the contract are properly handled by the employer association on the principle of uniformity. But many disputes arise out of the direct employer-employee relation quite apart from the minimum ground rules laid down by

the contract. To refer such matters to association and union officials for handling is a subversion of good employment practices and a distortion of the proper function of both employer and employee associations. A crew member complains because his quarters were inadequately ventilated in the Tropics; another objects that the brand of coffee served is of poor quality, the toilet paper too harsh, the soap too strong; the ship failed to carry a desired brand of steak sauce. These are actual grievance cases handled by the association and are typical of a substantial volume of "beefs." It is difficult to believe that direct negotiation between the individual parties affected would not be more conducive to peaceful settlement of this type of dispute than referral to an association which will negotiate with top officials of the union, each side being more concerned with the implications of any settlement on other interested parties than upon the equities of that particular situation.

Many of the steamship companies have no industrial relations officer. Labor problems have been so acute in this industry for a good many years that quite frequently the top operating official is the only company executive concerned with labor relations at a policy-making level. Such an official can devote only a small portion of his time to industrial relations; he is inclined to think that the basic contract has established labor policy for another year, and a little too ready to assume that a union demand during the contract term is a breach of its contractual obligations. In this harassed frame of mind, he refers to the association all his labor problems, including those which might properly be considered company personnel problems.

The unions, too, are guilty of forcing grievance settlements to a level far removed from the incidence of the dispute. Frequently the union delegate will present any and every claim, no matter how fraudulent, petty, or inequitable. He may make a belligerent and uncompromising demand that invokes a similar response from the port captain, and both sides then refer the entire matter "downtown." Such an attitude feeds the antagonism and animosity already present between top officials on both sides and obscures the direct employer-employee relationship. Any settlement ultimately reached is not likely to be founded upon equitable considerations.

There are, of course, many disputes involving interpretations of contract language or practices within the contemplation of contractual intent. These are properly determined by negotiation between the association of employers and the international officers of the union on the basis of coast-wise uniformity. These normally are disputes of a nature which can best be handled by the more formal procedures of coast-wide associations acting with the knowledge that its settlements become, for practical considerations, terms of the basic contract itself.

Both the unions and the employers are of the firm opinion that their own best interests require coast-wide uniformity in basic working conditions and application of the contract. Resolution of disputes over these matters would be greatly facilitated by contracts less complex and burdensome. In an effort to cover in detail every possible situation, the contract provisions have only succeeded in raising numerous questions concerning the proper application of its special

provisions. Over the years the unions have sought to increase the wages of its members and to compensate them for performing unpleasant tasks by negotiating extra payments for particular work. The employers, while resisting enlargement of these clauses, have preferred them to an increase in the basic wage. So numerous have these special provisions now become that both workers and operators are entangled in a web of their own making. Wage costs are uncertain, earnings cannot be predicted, disputes are inevitable. If many of these special working rules were eliminated from the contract, with appropriate basic-wage revisions to protect earning power, a very considerable source of friction between the parties might be removed.

Part III. Failure of Collective Bargaining To Resolve the Critical Issues

Fourteen years have passed since west coast maritime workers in a great upsurge of organized power forced from unwilling employers recognition and the right to bargain collectively. The winning of that battle by the unions was but the beginning of a long and exhausting campaign of attrition, with no peace yet in sight. The issues between the parties may be roughly classified into two main categories—those which are primarily economic and those esentially political in nature. The worker-oriented demands concerning wages, hours, and working conditions have usually been resolved by the processes of collective bargaining culminating in arbitration, either voluntary or through Government intervention. Union-oriented demands going to the sovereignty of the union as an institution and issues with respect to control of the job have been the primary source of friction over the years and have not been permanently settled either by agreement of the parties or by arbitration. Such adjustments as have been made from time to time have proven transitory. The same issues have reappeared in each negotiation.

Lloyd H. Fisher,[17] writing in the New York Times Sunday Magazine for August 31, 1947, suggested a parallel:

> Just as a national state holds its sovereignty inviolable, so the great infra-states of labor and management hold certain territory inviolable. They will bargain over the terms upon which the employment relationship will be based and if necessary submit the differences to arbitration. But each reserves an area the propriety of which it will not refer to an outside party. These are the nonarbitrable issues of industrial relations, which since they are nonarbitrable must be resolved by mutual agreement or by warfare. * * * The specific issues which are nonarbitrable will vary somewhat from situation to situation but in the main the outlines are clear. For management, the reservation, central and nonarbitrable, is the right of management to noninterference in the direction of the enterprise. For labor, the equivalent condition is a set of guaranties that the institutional security of the union will not be challenged.

On the Pacific slopes, these issues have not been resolved by agreement, and there is warfare. Nor is agreement likely in the foreseeable future under the present leadership on both sides of the bargaining table. For each side believes firmly that the other seeks to invade what

[17] Lloyd H. Fisher was formerly research director for the ILWU. He later became a research associate at the University of California's Institute of Industrial Relations where he was associated with Dr. Clark Kerr. He is presently at Harvard University.

Mr. Fisher describes as its inviolable territory. The employers are quite convinced that union leadership, under Communist domination, is intent on the destruction of the industry. On the other hand, union leaders confidently assert that the employers will destroy the union at the first opportunity.

Through the past 14 years, the same issues have again and again divided the parties, the same demands have been made, the same charges hurled. They have appeared in somewhat different form from time to time as one side or the other won some temporary advantage, but the basic and underlying issue throughout has been control over the job.

In the following discussion, it is not the purpose to weigh the relative merits of the arguments advanced by the opposing parties or to suggest the proper solution, but only to illustrate that the same critical issues have repeatedly marked the campaigns of either side, that collective bargaining has failed to resolve them, and that they all involve job control in one way or another. Sometimes the issue has been plainly labeled and easily identified; at others the arguments have been more subtle. At times the economic demands have merged with the political, and frequently an economic defense has been presented to a political demand. A review of a few of the issues which have appeared and reappeared may serve to illustrate the problem, inherent perhaps in all relations between unions and management, but here exposed unadorned by any pretense of agreement.

A. THE HIRING HALL AND RELATED ISSUES

Casual employment and the shape-up

Because of varying conditions of time, tide, weather, ship schedules, and cargoes, the work of cargo handling is necessarily and inherently intermittent in character. Over a long period of time the longshoreman was faced with the necessity of submitting to a condition of uncertain work opportunities, wide variations in earnings, and the other normal incidents of casual, irregular employment. His earnings were frequently abnormally high in some periods, and yet were very small during other substantial periods. There was no regularity to his employment; he worked until physical exhaustion prevented more when work was available because he did not know when the next job might come. It was a case of feast or famine.

Usually each stevedore employed steady gangs and steady men—those who were employed more or less regularly by the same employer and constituted his minimum labor force. To supplement this force when the particular operator had sufficient work to justify it, additional or casual men were employed by the shape-up. Some operators, whose work load varied considerably, used the shape-up system more extensively than others, and it is difficult to obtain any accurate estimates of the percentage of longshoremen forced to seek daily employment in this manner; but in any case its use was quite extensive prior to efforts of the west coast employers to achieve decasualization.

As the shape-up operates, each pier where work is to be done constitutes a labor market of its own. All longshoremen in search of jobs line up outside that pier and wait for the stevedore foreman to come along, tell them to shape up in a semicircle around him, and select the particular workers he needs. Those not selected must go to another pier and try again or wait (out in the weather or in the nearest saloon) for the next shape.

Under the shape-up system, there are usually several times as many men attached to the labor force as there are full-time jobs available on an average working day. The intense competition for employment resulting from this chronically glutted labor market leads to most vicious abuses, favoritism, discrimination, and downright bribery in hiring methods.

Early efforts to decasualize

Prior to 1934, west coast employers had done much to eliminate the uncertainty and variability in longshore earnings and work opportunities through a process of decasualization, the principal architect of which was Frank P. Foisie, now president of the WEA. Hiring halls were in operation before 1934 in the ports of Los Angeles, Portland, Tacoma, and Seattle. San Francisco was the only major west coast port without a decasualization program. Dispatching methods and central registration had been adopted to distribute the work opportunities of registered longshoremen and control the intake of new registrants.

However desirable the program may have been in eliminating the uncertainties and iniquities of the shape-up and reducing unemployment, it gave the employers a high degree of control over the selection of their employees and direction of the enterprise. During the 1920's the exercise of these functions was generally regarded as a normal responsibility of management. However, the union charges—and the substance of the charge is probably accurate—that the system was used arbitrarily and discriminatorily as a means of destroying unions and penalizing those who sought to improve their status by self-organization.

The 1934 award

When the tidal wave of labor organization engulfed the Pacific coast in the tremendous strike of 1934, that strike was for purposes beyond those of the ordinary economic strike for higher wages or better working conditions, beyond those of the usual strike for union recognition and bargaining rights. Its primary objective was to seize control of the job.

The award of the National Longshoremen's Board appointed by the President to arbitrate the strike issues established hiring halls in each port to be operated by a union-selected dispatcher under rules determined by a joint labor-relations committee of employer and employee representatives. In actual practice, the hiring-hall system established by the award resulted in an entirely new system of employment.

The union had a virtual veto power over unacceptable employer proposals in the joint committee, and through control of the dispatcher could enforce union policy and practice. Control of hiring had passed to the union.

The hiring-hall system has remained substantially unchanged in successive agreements until the present. In various ports dispatching

rules have been established which differ somewhat from port to port to embrace varying local practice or conditions. But in all of its major aspects the hiring hall for longshoremen has had the same results from Seattle to San Pedro.

In each port there is a list of registered longshoremen eligible for the work of that port. The list, originally compiled in accordance with the formula derived by the National Longshoremen's Board in 1934, can only be expanded or reduced by the joint consent of the WEA and ILWU. This group of registered longshoremen is exclusively entitled to all of the longshore work of the port so far as they make themselves available for it. None of the longshore work of any port can be made available to any one else so long as a qualified registered longshoreman is ready and available to perform it.

Dispatching rules require that work opportunities be equalized so that every longshoreman may receive the same share of the longshore work of the port as every other longshoreman. Ability, performance, experience, indolence, insubordination, dishonesty are all excluded from consideration. Because of the equalization-of-work opportunities and because of the very limited opportunity for advancement, there is no incentive to good work, no deterrent from poor.

The contract calls for preference of employment for members of the union, but specifies that this shall not deprive the employers' members of the labor relations committee of the right to object to unsatisfactory men (giving reasons therefor) in making additions to the registration list.

In 1945 the union demanded that it be given preference of full registration in place of preference of employment. Both parties agreed that the union did in fact enjoy preference of registration at that time—by virtue of the power of union members of the committee to offer an objection if the name of a nonunion man came up. Since 1934 no nonmember has obtained registration. According to the panel report of the National War Labor Board [18] testimony offered by the union indicated that what was really intended was to abridge the right of the employers to offer an objection when a name came up for registration.

The 1934 award, while destroying the power of the employer to discriminate in his hiring practice, gave that same power of discrimination to the union, and at the same time destroyed the employers' right of refusing to employ those who are incompetent. The incidents of job control exercised by the employers prior to 1934—the right to refuse to hire, right to dismiss, the right to employ the number of men and gangs required to perform a particular job assignment, the right to assign the employees to the performance of such work within their respective job classifications as would best promote efficient operations—these were all effectively destroyed by the hiring practices born of the 1934 award. The union dispatcher was given control of the hall.

[18] In the Matter of Waterfront Employers Association of the Pacific Coast and International Longshoremen's and Warehousemen's Union, CIO, National War Labor Board, Panel Report, Case No. 111–11744–D, May 25, 1945.

No less an authority than United States Senator Wayne Morse, at that time coast arbitrator, reported on November 7, 1940, that—

> Under the various provisions of the agreement, the freedom of the employer to select his men is so greatly restricted that it is practically no freedom at all; since the men must be selected from among those eligible under the policies determined by the labor relations committee, and since those policies call for dispatch of the men in rotation, the employer cannot insist that the dispatcher refrain from dispatching certain men, nor can he refuse to accept them.

Extension of union control

By various means the union, after winning the hiring hall in 1934, sought to extend and tighten its control over the job. The means included such devices as exclusive union control over discipline, union stewards to supplant authority of gang bosses, control of supervisors and foremen, and elimination of steady gangs and steady men.[19] All of these were bitterly resisted by the employers and continue to be contested issues between the parties. Meanwhile the fight over the hiring hall itself continued unabated.

The 1934 award, continued through 1935, was terminated by the parties in 1936, as were also the 1935 contracts with seagoing unions. In the previous struggle, the seagoing unions had not won hiring halls, the awards specifying that seamen could be hired either from the dock or from the union offices. In actual practice, however, the crew unions had obtained as complete control of hiring as had the longshoremen. The unions, by internal rules, prevented members from seeking or accepting employment except through the union hall. They then adopted shipping rules for the operation of the halls which established rotary hiring and denied to the employer any right of selection. The employers, although agreeing to secure all of their men from the union hall, demanded the right to select their crews from among the eligible union members. Although wages and hours were also issues, the hiring method was the troublesome problem. With respect to the longshoremen, the employers asserted that the 1934 award contemplated joint control of the hiring hall—a proposition entirely acceptable to the employers—but that the union had in practice assumed complete unilateral control through the union dispatcher. On October 29, 1936, all seven maritime unions went out on a strike which was to last 3 months. The issues then, the arguments advanced by the parties, very closely parallel the positions of the parties today.

1936—And now

Whether the statements hereafter quoted represent the true position of the parties is immaterial now. The important thing is that the charges and countercharges made then are still being made at this very time. There has been no intervening progress.

Consider this statement of Gregory Harrison [20] made 12 years ago:

> Shortly after the award was made, and acting through the dispatcher who was selected and nominated by the International Longshoremen's Union, that

[19] Gangs and men chosen by an employer for continuous work are called steady gangs and steady men. Those dispatched through the hiring hall to various employers are casual gangs or men.

[20] Maritime strikes on the Pacific coast, statement of Gregory Harrison on behalf of Coast Committee for Shipowners before USMC, November 2, 1936, p. 17 ff.

union seized exclusive control of the longshoremen's hiring halls up and down the coast. There is not now and never has been any controversy since the award was rendered as to the use of the hiring halls, or the desirability of employing men through the hiring halls, and the employers have no desire to abolish the hiring halls. All that is desired is that the hiring halls shall, in truth and in fact, be jointly maintained and operated. It is only desired that the employers shall be permitted to participate in the control of the hall and, within the policies jointly determined, select men qualified to perform their work.

In all ports of the Northwest the joint labor relations committees have been entirely prevented from establishing the rules governing the hall, or the dispatching rules. These rules have been laid down by the dispatcher acting individually, under the direction of the union.

Similarly, a pamphlet published in question and answer form in 1936 by the Coast Committee for the Shipowners, supplies statements that represent WEA's current position:

Q. How are the longshore hiring halls supposed to be operated?

A. The 1934 longshoremen's award specified that hiring halls for longshoremen should be jointly operated and controlled through labor relations committees comprised equally of employer and union representatives. Each hall was to have a dispatcher appointed by the union, but completely under the orders and control of the labor relations committees. As originally intended, the dispatcher's duty was to receive calls for men and tell the men where to report for work.

Q. Are longshore hiring halls being operated under the joint control of the unions and the shipowners in accordance with the awards?

A. No. The unions have arbitrarily taken complete control.

Q. How did union officials accomplish this?

A. Simply by forcing the dispatcher to take orders from the union instead of the labor relations committee. The dispatcher, being a member of the union, must obey the orders of union officials. This practice is a direct violation of the 1934 awards.

Q. What has been the result of this action?

A. It enables union officials to appropriate complete control over the selection and hiring of men, to withhold jobs from certain members if they choose, to send employers the poorest workmen or none at all, as they see fit.

Q. Are shipowners willing to secure men through hiring halls?

A. Yes, providing the hiring halls are operated under a joint control so as to give the shipowners a voice in the selection of the right men for the right job.

The contracts entered into early in 1937 after 100 days of strike did not materially alter the employment practices.

Contract compliance

The next major change did not occur until December 1940. The previous contract had expired in September 1939 and the industry operated almost on a day-to-day basis during extended negotiations finally concluded December 20, 1940. Up to that time, according to Paul Eliel [21]:

Primarily, it would appear that the efforts of the union, in the past, have been directed toward the building of the strongest possible organization. Distrust of the employers and the ingrained belief that they were only biding their time until they could smash the union have been potent factors in permitting the radical elements in the organization to foster and keep alive practices which were definitely prejudicial to the interests of the employer and, as it has proved in the long run, to the interests of the union itself. * * * There has been a basic conflict between what might be called "business unionism" and "ideological unionism," and until very recently the supporters of business unionism, while

[21] Labor Peace in Pacific Ports, by Paul Eliel, Harvard Business Review, summer, 1941. Mr. Eliel was then director of the division of industrial relations at Stanford University. He was later to become chairman of the Pacific Coast Maritime Industry Board, and is now a private industrial relations consultant.

probably actually in the majority, have never been able to make their point of view effective.

The two principal demands of the employers during these nogotiations were that illegal strikes and stoppages should cease and the contract as agreed upon be strictly observed, and that the standard of work performance be improved. When the new agreement was finally reached, incorporating revisions in the administrative machinery designed to secure more expeditious handling of grievances and including provisions to meet the employers' chief demands, Paul Eliel hailed it as the coming of labor peace to the Pacific. He predicted that there was then a general feeling that the union had attained status, that it was powerful and successful, and that the conditions the men enjoyed were all that could reasonably be expected.

But, as events were to show, the new agreement did not abate the struggle for power. In August of 1941 during the semiannual wage review specified in the contract, the union demanded additional wage increases and these were resisted by the employers on the ground, among others, that further increases were not justified because of the poor efficiency of the longshoremen. They attributed this inefficiency to the union's control of the job, again using almost the same arguments advanced before and since:

The employer has no control of who shall work. The union president has stated that the union, not the employer, determines who is to work. The complete union control over hiring halls is also one of the official boasts of the longshore union. In its official description of the west coast hiring halls the ILWU says: "Dispatchers report regularly to the union membership meeting and are completely under the control of the rank and file, to whom they answer for all their union and dispatching activities."

The power to determine who shall work necessarily gives the power to determine what considerations shall govern who works. The union has this power. It has utilized it to breed inefficiency, not to maintain efficiency.[22]

Joint participation with management—Maritime Industry Board

During the war years, the scene of the struggle shifted to the Pacific Coast Maritime Industry Board, created March 11, 1942, by executive order of Admiral Land, War Shipping Administrator. Normal relations between the parties were suspended during this period in favor of tripartite consideration by the board representing management, labor, and the Government. But the existence of the war emergency and the new board did not lessen the efforts of the employers to regain their lost control, or of the union to extend it. According to the union[23]:

It must be recognized in this connection that the union and the union board members had been exerting increasing pressure for adoption of proposals calling for joint participation with management in the running of the industry. * * * On the other hand, numerous proposals were submitted by them (the employers) directed solely at the men. * * * Some of them were as follows:

1. Proposal that the present decasualization of the industry through the medium of the hiring hall be supplanted by having preferred gangs working regularly for particular companies.
2. Maximum sling load limits.
3. Gang bosses.

[22] Employers' brief, 1941 wage arbitration before Coast Arbitrator Wayne L. Morse, p. 91.
[23] Report of the union members of the Pacific Coast Maritime Industry Board to the Fifth Biennial Convention, International Longshoremen's and Warehousemen's Union, CIO, San Francisco, June 4–10, 1943.

4. That restriction on the shifting of men on the job be done away with and men be shifted at the will and whim of the employer.
5. Standard ship gangs.
6. That the right of the union to elect hiring-hall dispatchers be abandoned for the duration and dispatchers be selected by the local labor relations committees.
7. Size of cement sling load.
8. That walking bosses be issued withdrawal cards from the union for the duration on the theory that as members of the union they were subject to intimidation for carrying out the orders of the employers.

Those proposals differ only in their wording from the demands of the employers at various times throughout the history of their relations with the ILWU, and the ILWU has consistently and steadily—

been exerting increasing pressure * * * for joint participation with management in the running of the industry—

to use its own words.

War Labor Board

The same issue again arose in 1945 when the matter was carried to the National War Labor Board in Washington. At that time, the employers once again proposed that the dispatcher should be selected by the labor relations committee of the port from the union membership, or upon its failure to agree, by the arbitrator. The War Labor Board denied this request, but recommended that the labor relations committee should agree on qualification standards to which the dispatcher must conform, and that he should be elected by the union for a 1-year term with the right to succeed himself. Other proposals of the employers designed to restore a measure of job control were denied. The union had achieved the maximum of control by this time, and its demands were almost entirely economic—demands for increased penalty rates, skill differentials, travel time, etc.

In appealing the panel report to the National Board in Washington, the WEA brief employs the same arguments which are to reappear 3 years later during negotiations preceding the 1948 strike.

These dispatchers are the instruments through which the union has control of hiring of longshoremen. Through them the union has been able in many respects to prevent compliance with the contract. And much of the lost efficiency, job action, and insubordination of longshoremen is directly traceable to the fact that dispatchers are responsible not to the employers or the labor relations committee but only to the union. * * * The important thing is that the panel recommends the continuance of union control over the selection of all dispatchers, and rejects the plea of the employers that the labor relations committee shall have a voice in the matter. The employers who contribute one-half of the cost and who are dependent on the halls for work performance are denied any voice whatever in the selection of these responsible agents.[24]

The Taft-Hartley Act and current negotiations

The principal issue leading to the current west coast strike is this same struggle for job control—for control over the hiring and assigning of men to their jobs. It is evident from the foregoing discussion of the history of this issue that the employers have long since abandoned all hope of themselves exercising unilateral control—no

[24] Waterfront Employers Association of the Pacific Coast and International Longshoremen's and Warehousemen's Union, Case No. 111–11744–D, before the NWLB. Brief of Gregory Harrison, Counsel for WEA, p. 50.

proposal made by them since 1934 has been directed to that end. They have for 14 years, however, sought joint representation with the union in the control of the hiring hall, or, alternatively, impartial third-party control.

There can be no question but that Congress, in amending the National Labor Relations Act, intended to place some restriction upon the unilateral control over hiring previously exercised by unions where there was, as in the maritime industry, a closed shop and union hiring hall.

It is clear that the closed shop which requires preexisting union membership as a condition of obtaining employment creates too great a barrier to free employment to be longer tolerated. In the maritime industry and to a large extent in the construction industry union hiring halls now provide the only method of securing employment. This not only permits unions holding such monopolies over jobs to exact excessive fees but it deprives management of any real choice of the men it hires. Extension of this principle to licensed deck and engine officers has created the greatest problems in connection with the safety of American vessels at sea.[25]

During the negotiations this spring and summer, the employers took the position that the employment practices under the old contract were in violation of the Labor Management Relations Act of 1947, and that this act required a change in the provisions of the contract governing registration and operation of the hiring hall in order to bring them into conformity with the new law. In view of this statement of position, the President's board of inquiry concluded that—

it is entirely clear that in the present circumstances the basic dispute, which overshadows all the other issues in controversy and which has thus far rendered agreement on any point impossible, arises from the amendment of the National Labor Relations Act by the Taft-Hartley Act.[26]

In a sense it is undoubtedly correct to say that the basic dispute arose from the provisions of the Taft Act, in that certain hiring practices sought to be changed by the employers would clearly be violations of law if continued. The position taken by the employers consistently through the past 14 years clearly demonstrates, however, that the Taft Act did not create the issue which gave rise to the strike; it merely gave legal support to certain of the proposals repeatedly advanced in the past by the employers. The final report to the President by the board of inquiry does in fact modify the stand taken in the first report and quoted above, by saying at page 29:

While their insistence is based on the ground of the requirement of the law, they [the employers] also appear to be dissatisfied with the current hiring practices apart from the question of law—

a masterful understatement.

During April and May of this year a considerable number of employers were interviewed and each was asked whether provisions of the LMRA were compelling employers to take a stand on this issue which they would prefer not to take but for the necessity of conforming to the law. With one exception, every official interviewed declared

[25] S. Rept. 105, 80th Cong., 1st sess., on S. 1126, p. 6.
[26] Report to the President on Labor Disputes in the Maritime Industry by the Board of Inquiry created pursuant to sec. 206 of Labor Management Relations Act of 1947 by Executive Order 9964 dated June 3, 1948, p. 6. The report was released June 11, 1948. A subsequent and final report was released August 13, 1948.

the position then being taken by the employers was compelled, not by legal sanction, but by the urgent necessity of regaining some measure of control if the industry was to survive. They stated that even without Taft-Hartley they would at this time adopt exactly the same position with respect to revisions of the employment practice, but that the provisions of law would, for the first time, buttress their position. One large employer asserted that his company was now taking the position that it wanted to take and had always taken, but Taft-Hartley would now prevent smaller and weaker companies who agreed with the policy but were not able to stand a strike from submitting to economic pressure.[27]

During the current negotiations with the ILWU, the employers proposed the following with respect to revisions of the employment practices:

1. Elimination of the clause giving preference of employment to members of the ILWU, and substitution of a clause forbidding discrimination in employment because of membership in the union.
2. Elimination of that provision which requires union approval of applicants for registration as longshoremen. In lieu thereof, the employers offered to give preference to men who have been previously employed in the industry as registered longshoremen. The joint labor-relations committee would continue to determine how many men should be added to the list from time to time.
3. Elimination of the clause making the dispatcher a union-elected official. The employers proposed that dispatchers be appointed by the Director of the Federal Mediation and Conciliation Service.

The union rejected this proposal. It did indicate a willingness to consider elimination of the provision for preference of employment, but only if the employers would agree that the longshoremen could engage in work stoppages and refuse to work with men not belonging to the ILWU without having such a stoppage constitute a breach of contract. With respect to the other contract provisions, the ILWU took the position that they were not in violation of law and would not consent to a revision until or unless they had been declared illegal by the courts.

With respect to the seagoing unions, the employers demanded elimination of the preference-of-employment clauses, but offered to substitute a clause giving preference to men with previous experience on ships of west-coast employers.

Employers repeatedly committed themselves during these negotiations, as in prior years, to continued operation, use, and support of hiring halls but demanded only that complete union control over hiring and discrimination against nonunion men be eliminated.

It should be observed that, although this issue was most bitterly contested during negotiations and was denominated a strike issue, it was eliminated before the strike and was not a direct and immediate

[27] The one employer whose opinion deviated from the tenor of the foregoing remarks agreed that the ultimate welfare of the industry required elimination of unilateral union control over job opportunities, but was of the opinion that, but for the Taft Act, the employers would not stand a strike over the issue at this time.

cause of the strike. After months of unsuccessful negotiations, and after the east-coast settlement, the employers acceded and agreed to continue the previous contract language and practice pending court determination of legality under the Taft-Hartley Act. The broad issue of job control remains an underlying and fundamental cause of the present strike, but the specific issues raised by the act were eliminated as strike causes before the stoppage began.

Crew hiring—a special problem

The nature of life at sea provides a unique argument for participation by the union in the selection of men to fill the jobs—an argument not applicable to industry generally, but of some force here. When a seaman signs articles, he is committing himself not only for 8 hours a day of working time, but for all of his nonwork time as well. His companions who will share with him his sleeping and bathing accommodations, his hours of relaxation, meals, and time ashore for the duration of the voyage are irrevocably selected by the employment contract. Moreover, life at sea is so confined that the individual has no opportunity to accept or reject the social companionship with the rest of the crew; it is thrust upon him. The right of a man to influence, through his union, the choice of his non-working-hour associates may be greater than his right to control selection of fellow workers. But this union influence may be exercised while still preserving to management a proper degree of control over selection of personnel. The argument justifies some participation by the union, but not necessarily a closed shop.

But if the justification for union participation in the control of hiring is greater in the maritime industry than elsewhere, the reasons for restricting complete unilateral union control are at least as compelling in that industry as in others. Because of the frequency with which a seaman changes from one employer to another, the hiring method assumes an importance greater than in most shore-side industries. Complete control over job opportunities by either management or union opens the way for repeated abuse and discrimination. The problem is a difficult one deserving serious consideration by thoughtful leaders in union and management. Hiring practices in the past have inadequately protected the interests of first one party and then the other. No satisfactory formula has been suggested that will provide competent crews amenable to the proper direction of the employer and responsive to his interests which will at the same time offer adequate institutional security to the union without subjecting individuals to discriminatory control by either side.

The committee is aware of the problem, and will give sympathetic consideration to any legislative amendment that may be required by a fair and equitable formula if one is devised.

B. DISCIPLINE

Bitterly contested for 14 years has been the power to discipline longshoremen for various specific offenses or for general incompetence. The power to discipline is, of course, one of the most effective incidents of job control. Misuse by employers makes possible the most vicious

discrimination and binds the worker to a state of servile obedience. The power of a strong union to prevent abuse of the authority to exercise disciplinary measures has been one of the strongest incentives to employee organization. It is the prevailing practice in American industry today to subject the exercise of disciplinary authority by the employer to review in the grievance procedure.

The contrast between the practice in industry generally and the practice among the water-front workers of the Pacific coast most clearly demonstrates the degree of job control attained by the ILWU. The problem is closely related to and really a part of the broader problem of hiring and dispatching.

Prior to 1934, longshoremen, like other employees, were subject to dismissal from their jobs for inefficiency, drunkenness, pilfering, and other offenses. They were also subject to dismissal and blacklisting for union activity. After 1934, this power of discipline passed completely from the hands of the employers to those of union officials.

Under the 1934 award, the employers were given the right to discharge any man for incompetence, insubordination, or failure to perform the work as required. Grievances over discharges were to be decided by the labor relations committee or, upon failure to agree, by the arbitrator. But, under the hiring-hall system, this right to discharge was wholly illusory, for, although an employer might dismiss a man from a particular work assignment, that longshoreman, even though he may have committed a serious offense, remained a registered longshoreman, as much entitled to his share of the work of the port as any other. More than that, he could be, and frequently was, redispatched to the very employer who had dismissed him, and the employer was bound to accept him.

Most closed-shop contracts have given the employer the right to reject for specific reasons individuals sent him by the union. Under the longshore contract, the employer has no right to refuse to accept a man properly dispatched to him, regardless of that man's past history or prior experience with the employer. The only way in which a longshoreman could lose his job was by joint action of the employers of the port as a group and the union of which the longshoreman is a member.

After the strike of 1936–37 a new provision was written into the contract pledging all members of the union to perform their work conscientiously, and pledging that the union would itself impose disciplinary penalties upon longshoremen guilty of deliberate bad conduct in connection with their work. Failure of the union to comply with the provision could be taken to the labor-relations committee and the arbitrator, but these had no authority to impose penalties but only to determine whether the union had complied with the contract.

The contract of October 1, 1938, added a provision to the effect that the labor-relations committee or the arbitrator could impose specified penalties for pilfering and drunkenness.

Under this contract, longshoremen refused to pass a demonstration picket line in Los Angeles protesting the loading of scrap iron destined for Japan. The port arbitrator determined that this conduct was in violation of the contract. While he was considering the reasonableness of a request to refer the matter back to the union for imposition of penalties, Mr. Bridges stated flatly not only that the union would not punish members for respecting a demonstration picket line, but that the union would resist and battle, if necessary, for its right to avoid passing demonstration picket lines.

Thereupon the arbitrator penalized the longshoremen who had engaged in the work stoppage by suspending them from the registration list for 1 week, during which week they were not supposed to be dispatched. Notwithstanding, the union dispatcher proceeded to attach one of the so-called penalty men to each gang dispatched from the hall. The employers refused to take the penalty men and the gangs refused to work without them, resulting in the tie-up of the port of Los Angeles. The coast arbitrator thereupon held that the foregoing decision of the port arbitrator was erroneous in that it was beyond the power of the arbitrator to penalize individual longshoremen except for pilfering and drunkenness, his power in other cases being limited to a determination of whether the local union violated its obligations in failing to impose discipline on its own members.[28]

Thus the employers had no effective means of enforcing proper working directions, no power to impose penalties for any reason. The arbitrator was limited to cases of pilfering and drunkenness. For any other offense the longshoreman was subject only to such discipline as his own union might care to impose.

Under this system every incentive to good work was destroyed; the last vestige of loyalty or responsibility to the employer was gone. No longshoreman, no matter how competent or skilled, earned any more than the one who was indolent or unskilled. Where continued work opportunities and the absence of disciplinary penalties are the usual reward for proper conduct and efficient work, these had now become the reward for diligent pursuit of the policies of the union officialdom.

This union control has been used most effectively to enforce whatever policies and practices the union officials chose to impose. Union stewards were appointed for every longshore gang and every dock where longshore work was performed. They supplanted the gang bosses in authority and undertook to carry out the policies of the union. Thus was made effective such things as the slow-downs, the steady reduction of sling loads, refusal of jitney drivers to move out of turn, opposition to use of swing boards, refusal to handle hot cargo or pass demonstration picket lines.

So it was that, during the prolonged negotiations leading up to the contract of December 1940, the employers insisted upon some disciplinary provisions which would insure compliance with the contract. When the agreement was finally reached it provided that, if the employers were dissatisfied with the disciplinary action taken by the union then the port labor-relations committee should have power and duty to impose penalties on longshoremen found guilty of refusal to work cargo in accordance with the provisions of the agreement. Failure to agree on imposition of penalties would result in appeal to the coast labor-relations committee, and thence to the arbitrator.

[28] Award of Wayne Morse, coast arbitrator, September 11, 1939.

There were fewer instances of work stoppages alleged to be in violation of the contract during the ensuing few months. No cases were taken to the arbitrator under this provision. During the wage review in the following year, however, the employers were again complaining that—

> There is no discipline. In 7 years no single longshoreman and no gang of longshoremen have had their registration canceled because of willful slow-down, even where chronic and notorious. The union's pledge repeatedly through the years, and renewed in this agreement, to accept responsibility for disciplining men for violation of contract continues unhonored.[29]

At about this time, however, the war in Europe was suddenly transformed from an "imperialist war" of aggression to a "people's war against the forces of fascism." The union publicly announced "that it is necessary for trade-union organizations to examine and readjust policy, program, and perspective when the Nation is suddenly engaged in a people's war." [30]

Disputes were referred to the Pacific Coast Maritime Industry Board for adjustment rather than to the labor relations committee. The union accepted as a patriotic duty orders revising work practices that would result in greater productive efficiency, and itself proposed creation of a tripartite board which would have jurisdiction over all phases of the industry, including management.[31]

According to the union, specific directives of the board intended to increase production were willingly accepted by the union.

> Other board orders had to do with certain working rules or practices and can be considered as having involved some sacrifices on the part of our union membership. In this connection it is well to bear in mind that such sacrifices as were made were largely of peacetime rules and privileges which no labor union in support of the war effort could hope or want to adhere to for the duration. It is to the everlasting credit of our membership and their officers, both international and local, that such sacrifices as the war emergency demanded were made willingly and with the cooperation and support of the overwhelming majority of the rank and file. There was but a handful who failed or refused to recognize that the present global struggle against the forces of fascism, as represented by the Nation's war effort, was in fact and reality but a continuation of our picket-line activities in 1934 and 1936–37.[32]

Toward the end of the war the arbitration machinery of the contract, suspended during the life of the Maritime Industry Board, was again placed in operation, and there was almost immediate agitation for a revision of the disciplinary provisions of the contract. The position of the employers was that many work stoppages in violation of the contract were the result of the union's job action policy, and for these the arbitrator should be given authority to assess damages against the union. In cases of individual misconduct, the employers demanded authority to suspend the offending individual from the registration list.

[29] Brief of the employers, 1941 wage arbitration before Wayne Morse, coast arbitrator, p. 122.

[30] Report of the union members of the Pacific Coast Maritime Industry Board to the fifth convention of ILWU.

[31] Concurrently with these proposals of the ILWU, there appeared in the Daily Worker a series of articles by William Z. Foster outlining correct trade-union policy during the war. "Trade-unions' policy is necessarily based upon the great national interest of winning the war, with which the immediate interests of the workers are completely identified * * * all trade-union policy should be directed toward developing the workers' greatest productive and fighting efficiency. * * * In the matter of working conditions, the trade-unions need to show real flexibility. Some unions * * * may have to modify certain of their working rules to facilitate increased production. Required modifications will become evident through the workings of labor-management committees for increasing production."

[32] Report of union members, supra, p. 117. It is a starting disclosure to find a union publicly announcing that its strike activities directed against management are to be identified with the Nation's war against a foreign aggressor.

During the hearings before the War Labor Board in 1945, the employers argued that the right to discharge longshoremen for specified reasons, subject to review in the labor relations committee, is "illusory because a longshoreman discharged one day can be and has been redispatched to the same employer the next day." They argued that he should not be redispatched to any other job until his case was disposed of by the labor relations committee.

In disposing of this issue, the Board stated:

> Clearly, a discharged longshoreman should not be redispatched to the employer who discharged him unless and until it is decided that he was discharged without sufficient cause. On the other hand, employees do not customarily lose their right to employment in an entire industry merely because they have been discharged for cause by a single employer and such a result would be the more harsh where the industry, united under a single contract, would have the power accurately to enforce such a regulation.
>
> The panel recommend that the employers' request relating to discharged longshoremen be limited to the prevention of redispatching to the discharging employer and as so amended should be granted.[33]

The employers appealed to the National War Labor Board on this and other points, pointing out that the measure of relief granted by the panel recommendations was trivial in that, no matter what the misconduct, the longshoreman would continue to be dispatched to the other employers as though nothing had occurred, his earnings would continue, and he would suffer no penalty. The Board, however, affirmed the panel recommendation.[34]

The contract of July 16, 1946, incorporated the changes directed by the Board. These were continued without change through June 15, 1948.

During the negotiations prior to termination of the contract and during the period of the national emergency injunction in the summer of 1948, the employers made no proposals relating to discipline as such. But the ILWU proposed—

> elimination of present disciplinary and penalty provisions of the contract, plus a new provision to the effect that any cessation of work by longshoremen either as individuals or groups of individuals is not to be considered a violation of the contract.[35]

Acceptance of this proposal would, of course, have left the employers with no effective contract, since it would leave neither the union nor its members under any obligation or liability. The employers then offered a counterproposal that the disciplinary provisions be amended to eliminate union participation in the assessment of discipline and to provide for imposition of disciplinary penalties by the employers alone, subject to review under the grievance procedure.

This was rejected by the union, and there the matter stands. It is one of the many continuing unresolved issues between the parties on which collective bargaining has entirely failed to produce agreement.

[33] National War Labor Board, Panel Report, WEA-ILWU, Case No. 111–11744–D, May 25, 1945, p. 60.

[34] Directive order of NWLB, WEA-ILWU, Aug. 25, 1945, Case 111–11744–D. Specific penalties for pilferage, drunkenness, and smoking were also directed.

[35] Statement of the ILWU dated Aug. 10, 1948, to the Presidential Board of Inquiry.

C. EQUALIZATION OF WORK OPPORTUNITIES

Rotation of workers and equalization of work opportunities for all union members of the ILWU has been a constant source of trouble between the parties even though for all avails and purposes the union won the main battle some years ago. The employers contend that such equalization has reduced efficiency and transferred the loyalty of the workers from the employers to the ILWU.

Section 11 (a) of the contract signed between the parties on June 6, 1947, states:

> * * * The employers shall have the right to have dispatched to them, when available, the gangs in their opinion best qualified to do their work. Subject to the foregoing provisions, gangs and men not assigned to gangs shall be so dispatched as to equalize their work opportunities as nearly as practicable, having regard to their qualifications for the work they are required to do.

The discussion of "steady gangs" before the War Labor Board on May 25, 1945, In the Matter of Waterfront Employers Association of the Pacific Coast and International Longshoremen's and Warehousemen's Union, CIO, outlines the general problem involved and the attitude of the parties. The report points to the language of section 11 (a) of the contract that is quoted above and adds:

> The same words appeared in the National Longshoremen's Board award of 1934. Gangs chosen by the employers for continuous work are called steady gangs. Gangs dispatched to various employers through the hiring hall are called casual gangs.
>
> Section 4 of both the longshore agreement and the award states that all men shall be hired and dispatched through the hiring hall, and section 5 says that the dispatcher shall be selected by the union. Through the power thus conferred, the union ceased supplying steady gangs in Portland, Seattle, and Los Angeles in 1935 and in San Francisco in 1939. Ever since that time all longshoremen have been hired through the hiring hall under the supervision of the dispatcher who is presumed to have divided the jobs qualitatively as well as quantitatively, giving to both unattached longshoremen and gangs their share of the tasks without preference for any man, gang, or employer.
>
> The employers argue that familiarity promotes efficiency and sound industrial relations and that the cessation of continuous employment of the same group by the same employer has caused a heavy loss in productive capacity. They also urge that such continuity of employment decreases the burden of dispatching, relieves the need of reporting to the hiring hall, and lessens travel time. They hold the restoration of steady gangs to be the most important of their demands.
>
> Accordingly, the employers proposed that section 11 (a) be amended by adding the sentence: "The union shall supply each employer with as many steady men and gangs as the employer needs."
>
> The union does not deny that steady gangs will increase the efficiency of the operation of certain employers and eliminate the hiring problems of certain longshoremen but avers that these very virtues emphasize the countervailing vices of favoritism and inequality of work opportunities—evils that the hiring hall was supposed to eliminate.
>
> The union insists that is no answer to say, as the employers do, that during specific periods the earnings of casual and steady gangs were approximately equal in San Francisco. Assuming the figures to be typical, they do not begin to spell a true equality between the two classes into which the employers seek to divide the union. Equalization is the fundamental objective of the union, and equalization includes equal requirements of reporting, equal division of the desirable jobs, equal acceptance of unpleasant tasks, equal regularity as well as quantity of employment, and equal sharing of the work when times are bad. The union urges that it has built an industrial democracy with one type of citizen on the foundation of equitable work assignments and that the inevitable effect of the employers' proposal would be to split the union and create disunity and strife.
>
> The roots of the trouble strike deep * * * the natural opposition of management to the necessarily leveling effects of trade-unionism. Clearly some efficiency is at least temporarily lost with each impairment of the right to select the man for the job, whether through the operation of the closed shop or the principle of seniority, or a limitation of the power to discharge, or, as here, the division of the work opportunities. To weigh such losses against the ample but imponderable advantages of the democratic objectives and the democratic organization of labor involves a problem for which there may be no determinate solution.

D. CONTROL OF SUPERVISORY EMPLOYEES

Efforts of the union to extend its degree of control over the job have not been limited to the rank and file workers. There has been a persistent campaign by the ILWU to bring into the unions various categories of supervisory employees and to subject them to disciplinary control of the rank and file union. The long fight over the walking bosses is one example.

Walking bosses—or dock foremen, as they are often called—have the responsibility of overseeing and expediting the loading and discharging of cargo. The picturesque name "walking bosses" derives from the fact that often one boss supervises a number of gang bosses and the longshoremen working under them on a number of hatches on the same ship or several ships. Such action requires that the boss walk from hatch to hatch and ship to ship.

Until recently the employers have done little to make the walking bosses themselves feel a management responsibility. Most of the bosses had been longshoremen and were members of the union. They were organized into a separate unit of the rank-and-file union, but the employers had never recognized the right of the ILWU to represent the bosses.

On May 13, 1947, the National Labor Relations Board certified the ILWU as bargaining representative for the walking bosses in California and Oregon, including the Columbia River ports in Washington, who were employed by member companies of the Waterfront Employers' Association of California, Waterfront Employers of Portland, and Waterfront Employers' Association of the Pacific Coast.

Despite the foregoing, the Waterfront Employers' Association refused to bargain with the walking bosses through the ILWU.

According to publications issued by the employers, their position was based upon the following:

(1) Supervisors have obligations to management that differ in many respects from those of other employees.

(2) It is the duty of the supervisor to see that work continues in an efficient manner at all times. It is the stated policy of the ILWU to engage in job action or "quickie" strikes to obtain concessions not provided in the signed contracts.

(3) Rules for punishing foremen and other rules governing their scope of authority have been established by the CIO longshore union. Under such rules, the foremen in California ports can and have been punished for issuing orders for efficient longshore operation which were not only permissible under the contract but entirely reasonable.

(4) The internal make-up of the ILWU makes it impossible for one unit to bargain as a free agent. Signers of any agreement must obtain approval of the whole longshore union. Thus, any contract with the supervisors would be dictated by the rank and file through international officers, and the supervisors would be bossed by the men they are supposed to supervise.

(5) The signing of the ILWU contract for supervisors would almost certainly mean rotation of employment among them. The foremen employed by a company would not be their regular men, but, rather, men hired through a union hiring hall on a rotational basis, with different men for each job. It was claimed that this would further reduce the efficiency of the company's operations because supervisors forced to rotate from employer to employer would be completely unfamiliar with the operations, problems, and policies of the company—no personal relationship could exist between the foreman and his company under such an arrangement.

In the latter part of May 1947, the union filed an unfair-labor-practice charge against the WEA claiming a refusal to bargain. The NLRB notified the union in writing on July 1, 1947, that it did not appear that any further action was warranted "inasmuch as the unit includes supervisory employees" and the Board said that they were declining to take further action.[36]

The ILWU, unwilling to accept this determination as final, decided to force the issue by means of strike action directed against individual employers. The first strike action began 10 days later, directed against Luckenbach in San Francisco. Four days elapsed before the strike was extended to the Outer Harbor Dock & Wharf Co., in Los Angeles. Management, intent upon resisting further extension of the ILWU control, notified the bosses that salary and working conditions would be discussed individually as with other management personnel. The employers contended that their dock foremen would be completely controlled by the rank-and-file unions if the ILWU were recognized.

The strike spread to other companies in the Los Angeles-Long Beach area, and the employers responded by closing the entire port.

Finally, after several arbitrations, it was determined that the union's picket lines were collusive and in violation of the contract, and that the employer's action in closing the port was also a contract violation.

On October 14, after 3 months, the work stoppages ended. Since then, employers have undertaken a campaign to give to dock foremen the indicia of management. Whether the union will make further attempt to represent the bosses remains to be seen. There has been no permanent settlement unless Taft-Hartley provides one.

E. SHIP CLERKS OR CHECKERS

Although the employers have thus far withstood efforts of the union to extend its control over the dock foremen, they have been forced to

[36] Sec. 14 (a) of the Taft-Hartley Act states, "Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining." Passage of the act intervened between the filing of the charge and its dismissal.

relinquish control to the union over ship clerks. A checker or ship clerk is one who receives, delivers, checks, spots, or weighs cargo as it is moved to or from marine terminals, piers, or ships. Some are employed by the day and some by the month. It is evident that the employers have regarded their monthly clerks in quite a different light from the daily employees. Monthly clerks are entrusted with duties and responsibilities of a supervisory nature and are regarded as a fruitful source of executive material.

The old contract provided for preference of employment for daily clerks only. There has been a long history of efforts by the union to bring monthly clerks, as well as daily clerks, under the control of the union—efforts vigorously resisted by the employers.

In June 1939 the union adopted a resolution providing that no member should accept a monthly job without the consent of the union. Ten clerks who had recently been employed by American-Hawaiian as monthly men promptly resigned. When American-Hawaiian refused to reemploy them except on a monthly basis, the union established picket lines. The stoppage soon spread until the port of San Francisco was closed. This particular dispute culminated in an arbitration award by Wayne Morse holding that the union did not have a right, under the contract, to interfere in the employment of monthly clerks.

Shortly thereafter the existing contracts were terminated and the union made a demand for preference of employment for monthly clerks. Negotiations following failed to produce agreement, and the union requested arbitration. The employers were willing to arbitrate all of the issues except that of preference of employment for monthly clerks; that issue they held was nonarbitrable.

A strike followed which lasted from November 10, 1939, until January 1940, but the employers stood firm in their refusal to arbitrate that issue. The union finally withdrew its demand for preference of employment for monthly clerks, and the men returned to work under an agreement to arbitrate other issues.

The demand for preference of employment for monthly clerks was next made in August 1944, when the issue was carried to the War Labor Board. The panel report recommended preference for monthly clerks and, after bitter protest by the employers, this recommendation was affirmed by the Tenth Regional War Labor Board (Case No. 111–15091). The new contract, dated March 28, 1946, incorporated preference of employment for monthly clerks.

It should be observed that this dispute did not involve the issue of union recognition. The ILWU has represented for collective bargaining the monthly clerks since 1936, and claimed that 95 percent of the clerks so employed were union members. The issue was the degree of job control that was to be exercised by the union.

Having finally obtained, with the aid of Government arbitration, preference of employment for monthly clerks, the ILWU then shifted the fight to enforce hiring on a rotational basis through the hiring hall. There has already been one short strike in Los Angeles in March 1948 when the union attempted to force the monthly clerks to go casual. The union has not yet accomplished this purpose, and further efforts may be expected which will probably evoke resistance by the employers.

F. WAGE ISSUES

Collective bargaining between the parties has been only slightly more successful in settling periodic demands for higher wages than it has in resolving the political issues. Agreements have been reached and kept, but usually those agreements have been dictated by outside parties rather than negotiated directly. It may be wise and proper for the parties to agree that they will submit to arbitration those demands on which they are unable to reach agreement; but the theory of collective bargaining embraces the concept that, through direct negotiation, the parties will ordinarily find a basis for a mutually acceptable solution. Resort to arbitration as a means of resolving every dispute is a perversion of collective bargaining. And where the arbitration is the result of Government intervention, as has so frequently been the case, the practice is a complete negation of the theory of collective bargaining. The following chronological summary of wage increases will serve to illustrate the extent to which the parties have relied upon some substitute for collective bargaining in the settlement of wage disputes.

Recent settlement of wage issues

Date	Party	Amount	Manner of settlement
February 1942	ILWU	10¢	Arbitration under contract.
October 1944	ILWU	5¢	Ordered by War Labor Board (dispute case) (ordered August 1945, retroactive).
October 1945	Seamen	$45	WLB (dispute case).
January 1946	Licensed officers	$5-$45	Do.
June 1946	Seamen	$17.50	War Shipping Administration.
Do	SUP	$17.50	Negotiated to conform with above.
October 1945	ILWU	22¢	WSA (part of above settlement ordered June 1946, retroactive).
August 1946	MFOW		Negotiated, but superseded by Fly award, September 1946.
September 1946	Seamen	$5-$22	Arbitration ordered by WSA.
November 1946	Licensed	15%	Strike settlement.
Do	ILWU	15¢	Do.
January 1947	ILWU	5¢	Arbitration as strike settlement.
Do	Seamen	6%	Arbitration (under WSA settlement of June 1946).
June 1947	do	5%	Negotiated.
Do	ILWU		New contract negotiated without increase.
December 1947	ILWU	10¢	Arbitration under contract.

The basic wage increases set forth above were usually accompanied by various fringe increases and other concessions which resulted in the payment of overtime or premium pay for work which had previously been performed in consideration of the basic wage. Thus, while longshore basic-wage rates have increased 75 percent since 1940, the cost of handling cargo increased by 135 percent.[37] Crew costs have increased by an even greater percentage. An analysis made by one large company for its own use showed an increase in 1947 over 1937 of 260 percent in basic wages, 956 percent in overtime wages (resulting in a total wage-bill increase of 342 percent), while total revenue increased 237 percent. Another analysis made in the fall of 1947 of 49 voyages by ships of four companies compared with a similar analysis by the same companies made in 1937 showed an increase in monthly

[37] On the basis of Maritime Commission experience in the intercoastal trade, as found by the Interstate Commerce Commission in Ex parte No. 29663.

earnings ranging from 181 percent for the chief steward to 271 percent for ordinary seamen.

It is true, of course, that these wage costs are mainly the result of war and postwar necessities which required the movement of tremendous quantities of cargo with little regard to cost.

Moreover, broad economic trends have been a controlling factor in wage settlements throughout American industry. It would be unrealistic to assume that collective bargaining could ignore these trends and result in wage agreements which did not reflect their impact. Nevertheless, in the maritime industry, the parties were unable or unwilling to evaluate broad economic trends as they applied to that industry, but preferred or were forced into leaving such appraisal to third parties. The increases, regardless of their justification, were obtained in a manner which actually weakened seriously the fabric of successful collective bargaining.

While the record is undeniable proof that collective bargaining has failed to resolve even the economic issues, its failure cannot be attributed to any one cause. The exigencies of war and Government intervention are partly responsible. The complexity of the bargaining structure which makes it necessary for each union to maintain parity with its rivals and with the east coast is a further limiting factor. But after all of the contributing causes have been appraised, the inescapable conclusion remains that the failure of the parties to negotiate at the bargaining table satisfactory agreements on economic issues has been almost as great as their failure to resolve political issues.

PART IV. CRITICAL APPRAISAL OF THE CAUSES OF CONFLICT

The committee is charged with the duty of studying—

> the methods and procedures for best carrying out the collective-bargaining processes, with special attention to the effects of industry-wide or regional bargaining upon the national economy.[38]

All bargaining in the maritime industry on the west coast is of the association or multiemployer type. What has already been said demonstrates that the collective bargaining relationship has not resulted in industrial peace, nor has it promoted—

> the flow of commerce by removing certain recognized sources of industrial strife and unrest.

Can the failure of collective bargaining be charged against the multiunit structure within which the bargaining is conducted? Have the public, the individual workers, the industry, and the union gained or suffered as a result of the industry-wide approach?

It must be recognized at the outset that industrial peace, if that term is taken to mean only an absence of work stoppages, is not necessarily a desirable goal. Indeed, a certain amount of controversy between the parties is often indicative of a virile relationship, whereas its absence would suggest the possibility of domination by one party or the other, or collusion at the expense of the consumer. The goal we seek in industrial relations is a recognition of the rights of each

[38] Sec. 402, Public Law 101, Labor Management Relations Act, 1947.

party together with adequate representation of the interests of all parties and an equitable harmonizing of those interests.

The bargaining structure

The careful student seeking to appraise and evaluate the labor-relations machinery in the west coast maritime industry, when faced with the undeniable evidence of its failure to achieve the goal, will attempt to determine whether the machinery itself is responsible. In making such an appraisal the experience of the west coast pulp and paper industry provides a sharp contrast.[39]

A very large number of the factors which have contributed to industrial peace in the pulp and paper industry are absent in the maritime industry. But a comparison of the two is valid, for there are many comparable factors. It is the conclusion of the committee (of the National Planning Association) that—

> In the west coast paper and pulp industry, industry-wide bargaining has been an instrument of industrial peace.

After suggesting some of the contributions industry-wide bargaining has made to industrial peace, the committee continues:

> Industry-wide bargaining could have caused warfare or aggravated it. For example, if there had been marked ideological incompatibility between the parties, industry-wide bargaining might merely have led to bigger and longer strikes. But the relations between the parties have been basically good. Management has been willing to accept unionism without reservations. It believes in the principles and actual practice of true collective bargaining. The unions fully accept private ownership and operations of the industry. They are industry-conscious rather than craft or class conscious.

The maritime industry on the west coast also bargains on an industry-wide basis. That the results have been almost diametrically opposite suggests that other factors than the form of bargaining have been responsible.

External conditions affecting collective bargaining

In both industries, the bargaining unit is coast-wide; in both uniform contracts have been negotiated since 1934. The maritime industry deals with seven unions, where the pulp and paper industry negotiates with two. In the pulp and paper industry there are approximately 15,000 workers covered, about the same number covered by the coast longshore contract.

There is one very significant difference in that the pulp and paper industry has been profitable and steadily expanding, whereas the maritime industry suffered losses and contractions. Also of importance is the difference in the character of the work force. The pulp and paper industry has attracted the more settled, steady family workers to whom stable and secure employment is of primary concern; in the maritime industry you are dealing with the homeless, restless, eternally unmoneyed adventurer who has no stake in the system.

[39] For an excellent analysis of the causes of industrial peace in this industry, see Crown Zellerbach and the Pacific Coast Pulp and Paper Industry, Case Study No. 1, by Clark Kerr and Roger Randall, published by the National Planning Association, September 1948.

Management approach

Not unrelated to the difference in the character of the work force is the difference in the approach of management to employee relations problems. Personnel administration in the maritime industry has not attracted a stable and loyal work force, nor developed a sense of responsibility and pride in the operation. Collective bargaining is, after all, only one phase of employee relations: good personnel administration can create a favorable climate for the bargaining relationship, and poor policies will place a heavy burden on it.

Another and closely related factor which has contributed to unrest in maritime and understanding in pulp and paper is the difference in responsibility of local officials. In the maritime industry, the unions have embraced "job action" as a means of wringing concessions not included in the contract terms from individual employers. This was followed by attempts to standardize the coast practices at the best level obtained from any employer. These tactics have led to greater concentration of control in the employer associations and less and less consultation at the local level. In the pulp and paper industry there is a sincere effort made to adjust differences at the lowest level, and frequent consultation in advance of any changes in working rules or practices. Emphasis is placed upon eliminating the causes of unrest at the local level, whereas almost all administration of the contract is at the top level in the maritime industry.

Foremen in the maritime industry have not been regarded or treated as part of management, nor kept fully informed on management policy and the reasons therefor. As a result, the walking bosses, checkers, chief stewards, mates, and others have felt a greater affinity toward their unions than their employers. By the same token, the employers lost the best means of direct communication with the workers. In recent years this deficiency has been recognized and is gradually being corrected, but in the past it has contributed to a lack of confidence and understanding on the part of the employees, to that general feeling that the interests of management were never identical with those of the workers.

The necessity for adequate communication through the foremen is greater in the maritime industry than elsewhere, for the simple reason that there is no alternative means. There are no local unions composed of the employees of any one employer—indeed there is no group of men who are employees of any one employer. Both ashore and afloat, the men rotate from one to another employer in the industry. Hence, while formal collective bargaining must embrace a unit wider than the single employer, the importance of local management representatives in carrying out company policy (as distinguished from industry policy) is magnified.

Political incompatibility

The most striking single difference between the pulp and paper industry and the maritime industry—the factor which has unquestionably been the greatest cause of dissension in the latter and has probably made the largest contribution to peace in the former—is the po-

litical compatibility of the parties. Introducing the discussion of this factor in the pulp and paper industry, Kerr and Randall assert:

> One prerequisite for industrial peace is the political compatibility of industry and labor. The private enterprise and the trade-union alike are institutions that desire to survive and to grow. If either party concludes that the opposite party seeks its extinction, the basis for cooperative relations does not exist. If each party concludes that the other will permit it to exist and perhaps even help it to succeed, the prospects for peace are favorable.
>
> Political compatibility depends on (1) the general points of view of the parties and (2) the drawing of specific lines between "mine and thine" which are consistent with the institutional needs of both sides. It has to do with the respective areas of sovereignty of management and unions, with the distribution of rights and of power.[40]

Most of the issues which have prevented agreement between the parties in the maritime industry are various facets of this broad problem of political compatibility. Reference has already been made to a few of the unresolved issues—control of hiring, discipline, steady gangs, foremen, etc.—all of them incidents of job control. It is all too clear that the parties have been unable to define political sovereignty in terms consistent with the institutional requirements of each because each party has concluded, rightly or wrongly, that the opposite party seeks its extinction.

At the outset, management did not accept unionism. It was only after a long and most acrimonious fight that the unions won the right to represent maritime workers. The struggle left a deep ingrained suspicion on the part of the workers that management was hostile and would destroy the union if given the opportunity. This suspicion has been fostered and carefully nurtured by certain of the union leaders. The industry has always felt that these leaders were Communist sympathizers whose policies were dictated by the Communist Party line of class struggle; that they were working for the destruction of the American free-enterprise system.

Attacks on the union leaders, from whatever source, were made to appear as attacks by the employers on the union itself. Harry Bridges has twice faced deportation hearings charging him with membership in and affiliation with the Communist Party. While this agitation for the deportation of Bridges did not receive its inspiration from the employers, they were made to appear its sponsors in the eyes of the union members and this served to increase the suspicion of the motives of employers.

Any experienced labor leader knows that, when the union is aggressively militant, such personal attacks upon him can be used to unite the membership. Opposition groups are immediately identified as employer stooges. And when there is no real external threat to the union, such a leader sometimes finds it necessary to artificially create one. War and the threat of war, whether in the conduct of union business or the affairs of nations, demands a war economy with tighter controls at the top and the loyalty of those who serve.

It has been the constant aim of some of the maritime unions to draw a sharp and irreconcilable distinction between the interests of the

[40] Op. cit., p. 28. Dr. Kerr was coast arbitrator under the coast longshore contract until shortly before the preparation of this paper. It is probably no accident that Dr. Kerr has placed emphasis on the very factors in the pulp and paper industry contributing heavily to peace which are most noticeably absent in the maritime industry.

workers and those of the employers. Mr. Bridges makes no secret of the fact that this is positive union policy. In the course of a hearing before the impartial chairman in the Los Angeles-Long Beach preferred clerk's dispute on March 16, 1948, Mr. Bridges made the following remarks, according to the official transcript:

> Mr. BRIDGES. I think this is what he wants to know, Mr. Chairman. We'll answer it.
>
> Do we develop, agitate, educate, or propagandize our men to be more loyal to the union than to the employer? You bet we do. No matter what happens in these proceedings we will never do otherwise. It is our union policy and an official policy—that they can't trust an employer; that if they depend upon an employer for any type of security or fair treatment, they'll get stung. And that is what we tell them; that their security comes through the union; that their living comes through the union. And when these people talk about "loyalty" and "influence," we have all been through it—some of us—and we know exactly what it means. "Working steadily" is only a nice name for it, but it develops into working steady, day and night, to working for nothing, out painting the boss' house, buying your drinks at the place they tell you, and a lot of other things.
>
> The answer to that thing is, "Never mind all the fancy language." At all times we educate and do everything we can to have the men's loyalty come first to their union. Then we make it a democratic union that they own, which means loyalty to themselves first, and the employers way down the line—if we can get them there. So there is no misunderstanding where our union stands and what we are trying to do. We don't preach love for our employers, because there has never been any love for the men in it.

His concept of the proper function of the trade-union movement is clearly one of class struggle. He has often been charged with membership in or affiliation with the Communist Party. Whether the charge be true or false is of little import here. He freely admits cooperating with Communists whenever it suited his purpose to do so, and no instance has been found when his purpose deviated in the slightest from the Communist Party line of the moment. His attitude toward labor-management relations may be summed up in a statement attributed to him in a speech before the University of Washington Luncheon Club at Seattle, May 14, 1937:

> We take the stand that we, as workers, have nothing in common with the employers. We are in a class struggle and we subscribe to the belief that if the employer is not in business his products still will be necessary and we will be providing them when there is no employing class. We frankly believe that day is coming.
>
> We use politicians as long as they benefit the labor movement and when they don't, we fight them.

Such an attitude makes political compatibility impossible. There can be no good faith collective bargaining with such as this.

That statement was made some 11 years ago. Perhaps the early organizational work of the union demanded leadership of that character. But the interests of the workers and of the union as an institution can no longer be served by leadership pledged to destroy the source of private employment, by pitting class against class in ceaseless war.

In May of this year, Mr. Bridges defined his concept of good faith collective bargaining to the authors of this paper. He stated that if, when the union makes a demand, the employers give a flat "yes" or "no" answer, good faith bargaining has occurred. A clear statement

of the employers' position so that the union will know where it stands is all that is required. But if the employers make a counterproposal or suggest a compromise, that is evidence that they are bargaining in bad faith.

Bridges explained that this concept necessarily follows from the fact that the interests of the workers and those of the employers were always adverse and antagonistic; that there was therefore no common meeting ground, no basis for any permanent mutually satisfactory agreement; hence any attempt to compromise and find such a nonexistent mutuality of interest necessarily implies dishonesty and bad faith. The best that could be hoped for as a result of "good faith collective bargaining" under Bridges' definition, would be a common understanding of the economic power of each party at any given time, recognized in the form of a truce or temporary agreement, binding only until one side or the other believes that the balance of power has shifted.

This concept is accurately reflected in the policy and in the performance of the ILWU, and is typical of the approach of those unions which confuse business unionism with left-wing political ideology. The concept is a complete denial of everything collective bargaining stands for and a challenge to the legitimate trade-union movement.

The same attitude was expressed by Hugh Bryson of the Marine Cooks and Stewards when he asserted that there is no good faith collective bargaining in the maritime industry or in any other American industry today; only a continuing struggle between the employing class and the working class based on economic power. To him, collective bargaining is no more than a means of temporarily stabilizing whatever happens to be the current balance of power.

It should be clearly stated that not all the west-coast maritime unions subscribe to this approach. Harry Lundeberg and Harry Bridges both rose to power during the 1934 strikes and worked very closely during the early days of organization. Lundeberg was regarded as no less radical than Bridges, though he was never accused of communism. He was reported to be a syndicalist whose policy was to "squeeze the shipowners and capitalists and make them lose dough."[41] However that may be, the partnership with Bridges was short-lived, and the two are now bitter rivals. Lundeberg appears to have matured through the years. While he is a forceful negotiator at the head of an aggressive union whose interests he most vigorously, and successfully, defends, he realizes at the same time that jobs and pay depend upon a healthy industry. The future welfare of the SUP is dependent upon a virile American merchant marine; whereas Bridges' longshoremen move the cargo from ships of whatever flag carry it. The same considerations affect the bargaining attitudes of the Masters, Mates, and Pilots, and the Marine Firemen.

Nevertheless, the possibility of achieving a stable and effective relationship with these unions is limited by the policies and practices of the other unions who subscribe to the theory of class struggle.

[41] The quote is from The Maritime Unions, an article appearing in Fortune for September 1937, which does not reveal its source. The writer does not know whether it ever accurately reflected Mr. Lundeberg's attitude. It certainly does not represent his current thinking.

With these considerations in mind, it would be difficult to show that the failure to achieve industrial peace in the maritime industry is the result, or even a byproduct, of the multiunit character of the bargaining. The basis for cooperative relations simply does not exist, while each party is convinced that the other seeks its extinction. And this is no less true when the bargaining is conducted on a local basis than when it is industry-wide.

Multiunit bargaining a practical expedient

As a practical matter, it is certainly arguable that the situation would have been far worse under local bargaining than it now is. The argument suggests the query, How bad can it be? To suggest what might have been the result had bargaining been confined to the local level enters the realm of speculation. Nevertheless, the broad outline is clearly discernible.

In the beginning the employers vigorously resisted union demands to bargain coast-wide. They have consistently since that time opposed efforts of the union to broaden the coast-wide unit to include workers now represented by the same union but with whom bargaining is now conducted locally. Nevertheless, the employers, both individually and collectively, have most emphatically and repeatedly argued against any legislative restriction on multiunit bargaining. The unions involved have been equally positive in their assertions that chaos would result from any restriction.

It was the unanimous opinion of every person consulted on the matter that bargaining relations with the various seagoing unions should be on a coast-wide level. This opinion was shared by officials of all the seagoing unions, the officers of the employer associations, officials of many of the steamship companies, and independent authorities. Everyone familiar with personnel problems in water transportation seems to agree that practical considerations require that the formal bargaining for a contract be conducted on a multi-employer level.

A ship, unlike a factory, is a mobile unit. It puts into many ports, and berths next to ships of competing lines. The crews compare earnings, living and working conditions with each other. Replacements for crew members are secured wherever the need arises. Hiring is not limited to the home port. Since the operations of the ship are far-flung, a union which adequately serves the crew should have equally wide geographic jurisdiction. Such a union is ordinarily far stronger than any single employer. If approximately equal bargaining power is to be achieved, it must be through association with other employers.

From the union point of view, it would be highly undesirable if the pay scale and working conditions on the ships of one line were materially different from those of another. It is unquestionably true that the unions could obtain a higher rate from some companies than from others if the bargaining were conducted on an individual company basis. The result, however, would probably be dissatisfaction within the union ranks and criticism of the leaders for failure to obtain the best rate in every case.

Satisfaction is a relative matter based upon a comparison of one's own status with that of associates. The nature of employment in the

maritime industry is such that the dissatisfactions would be great if wages and working conditions were not approximately uniform.

The same considerations do not apply to relations with shore side workers. To the extent that longshoremen are not the employees of any one employer but rotate among all the employers of a port, it is difficult to see how collective bargaining could be effective between individual employers and the union. Wages, working rules and conditions should be uniform throughout any one port area which constitutes a single labor market. There is, however, no compelling reason in theory requiring coastwide bargaining for longshoremen.

There is a compelling reason arising out of practical considerations. The ILWU longshoremen constitute a single strong coastwide unit. They learned from pre-1934 experience that local bargaining was unsuccessful—ships and cargoes could readily be diverted by the operators from a struck port to an open one. Since 1934 they have always bargained as a single unit—often in close cooperation with the seagoing unions who were bargaining for the entire coast. The NLRB has certified the coastwide unit as the one appropriate for collective bargaining (7 N. L. R. B. 1002, decided June 21, 1938).

The employer associations have gradually increased their centralized authority as a defense against the centralized power of the union. There may be ample evidence that the longshoremen were originally forced into coastwide bargaining, as distinguished from local bargaining, because the employers actually operated in a coastwide labor market and were in a position to effectively obstruct attempts at organization that were not coextensive with the labor market area. The same considerations would today give the operators a large advantage over a union which was, in fact, limited to one port. It is equally true, however, that the operators would be under a like disadvantage if forced to negotiate locally with a union whose strength was drawn from the entire coast.

Most independent observers today assert that the central authority of the employer associations is a necessary defense or balance against the economic power of the unions. Thus Paul Eliel, referring to the employers' united front and counteroffensive, clearly identifies them as a logical defensive development.

> These were slow in developing, as the fundamental individualism of the more than 200 employers made abortive all early efforts to secure united action on their part. But with no sign of a diminution in stoppages, employers gradually became convinced that only as a result of united action could the enormous and tellingly directed economic strength of the men be countered.[42]

Dr. Clark Kerr, in a personal interview with the authors, positively asserted that any restriction on industry-wide bargaining would result in chaos in this industry. He concluded that the employer associations are today a necessary defense against the superior economic power of the unions, and, given the militant union leadership that now prevails, the industry would be "chewed to pieces without them." It may be suggested that, even with more conservative union leadership, interunion rivalry is such that a strong employer association would be the only adequate safeguard against whipsaw tactics.

[42] Paul Eliel, Labor Peace in Pacific Ports, Harvard Business Review, summer 1941.

Moreover, irrespective of the character of the leadership on either side of the bargaining table, a realistic understanding of the nature of longshore operations supports the appropriateness of a coastwide bargaining unit. Many of the individual employers operate coastwide. Matson, for example, does its own stevedoring in several different ports. But Matson policy is determined in San Francisco. It follows that union policy in dealing with Matson should likewise be determined in San Francisco. But the longshoremen who are employed by Matson one day work for another stevedore the next. Multiply this by 150 employers and 15,000 longshoremen rotating amongst them and it becomes evident that basic policy governing both employers and unions should be uniform. The coast is actually one homogeneous unit. A tie-up in one port quickly affects all of the coast. Ships diverted from a struck port are followed by the union, and picket lines are respected. There are thus immediate coastwide repercussions from even a purely local dispute.

Industry-wide bargaining appears to have been both a necessary and logical development from the practical economic factors governing the industry.

The curse of bigness

All of this is not to say that industry-wide bargaining has been good for the industry, the public, the unions, or the maritime workers. It has not. Many of the indictments of industry-wide bargaining leveled by economists and students of industrial relations are realities in this industry.

It has been argued that:

> The fact of the matter is that once industry bargains replace employer bargains, the employers and the industry have lost the only effective check there is on excessive and arbitrary demands. Freed from the threat of unfavorable economic conditions, unions are in the position to hold on to the scales of wages they have previously won and to build the structure of shop rules and regulations which in the long run become so formidable a factor in the cost of doing business. Literal adherence to the policy of national uniformity in wages and working conditions results in removing from the influence of competitive forces many of the most important elements of labor costs.[43]

This, perhaps, is the real answer to the argument that labor costs should be uniform throughout an industry. It leads ultimately to the situation where the only check upon union demands is the danger of pricing the industry out of the market. And this has in fact very nearly happened in the maritime industry. For water transportation to attract cargo, there must be a spread between rail and water rates sufficient to justify the greater elapsed time in transit. Increased costs in marine transportation, chief of which is the higher labor cost, have narrowed the rate differential to the point where cargo is being driven to other modes of transportation.

On the other hands, the economic character of the industry makes the demand for uniformity a pressing one. In one industry after another, the union movement has been weakened by the migration of plants to regions offering lower wage costs. In the maritime industry, the plant, or ship, is a highly mobile unit readily diverted to take

[43] The Area of Collective Bargaining, by Leo Wolman in the Political Science Quarterly, December 1944.

full advantage of geographic variations in labor costs. The advantage may, however, be more theoretical than real, since the operations of the ship must be governed by the availability of cargo.

Perhaps the most serious charge to be hurled at the system of industry-wide bargaining is "the curse of bigness." The transfer of responsibility for labor standards and the conduct of labor relations from the individual employer to the industry association results in the undesirable separation of collective bargaining relations from human relations. The associations have acquired an institutional identity consistent with but not the same as that of their members. Likewise, the national officers of the unions, while representing and speaking for their members, do not always take the same approach that would be adopted by the various locals. The conduct and administration of labor relations becomes more and more divorced from individual personal problems.

Then, too, the importance and necessity for the employer association and the indispensability of the current union leadership may sometimes be measured in terms of battles won. Industrial peace might threaten the leadership of those under whom it was achieved. The fear of attack is a deterrent to change in leadership.

Industry-wide bargaining has, by its nature, promoted union unity and safeguarded its gains. For the industry, unity and greater bargaining power have been purchased at the sacrifice of the right of individual employers to deal directly with their employees.

The fear that a joint monopoly resulting from collusion of the employer association and the national union at the expense of the consumer is the logical consequence of industry-wide bargaining has been often expressed by students of labor economics. It has been charged that, under industry-wide bargaining, you have bitter and costly conflict if the parties are hostile, and joint monopoly if they cooperate.

> Sooner or later the larger consequences of this policy (industry-wide bargaining) begin to make themselves felt. The industry members of such joint bargaining arrangements grow accustomed to various ways of restraining competition. In return for rising, or "stable," wages, they ask only rising, or "stable," prices for their products. They are even willing to accept the usual restrictions of output, provided that they are uniformly applied throughout the industry and pay for themselves in higher prices. In short, a scheme of things which begins as a simple means of improving the methods of collective bargaining and achieving several of the familiar aims of trade-unions flowers shortly into joint monopoly, in its most advanced and effective form."

It cannot be doubted that a joint labor-employer monopoly, where it occurs, is a most serious threat to our free economy, which takes us well along the road to nationalization of industry. Joint monopoly has occurred in this country in certain segments of the building industry, and in several British industries where it has been followed by nationalization. It certainly has not occurred in the west coast maritime industry, nor is it even a remote possibility in the foreseeable future. The competition from other modes of transportation in the domestic trades and from foreign flags in the offshore trades would seem to be an adequate safeguard against this eventuality.

The question of the severity of strikes under multiemployer bargaining, including the industry-wide stoppage, is a problem distinct

" Leo Wolman, article cited, *supra*.

from a discussion of the economic consequences of such bargaining. There might well be an industry-wide strike without industry-wide bargaining. The strike pattern in the bituminous-coal industry has not been noticeably altered by a change from industry-wide bargaining to pattern bargaining. In any case the national emergency strike is at the opposite end of the spectrum from joint monopoly and suggests separate legislative treatment.

The fact of the matter is that multiemployer bargaining has, in different industries, been both an instrument of peace and of war. In some contexts and in some environments, it has been conducive to the preservation of industrial peace, while in other instances the opposite result has been produced. The conclusion seems inevitable that it is not multiemployer bargaining per se which has produced either result. Where other factors are favorable to industrial peace, industry-wide bargaining may facilitate its achievement: where other factors militate against industrial peace, multiemployer bargaining may increase the cost of conflict. But peace and war are both relative terms. There is evidence that, in the maritime industry, the cost of conflict might well have been greater in the long run had the bargaining been restricted to the individual employer. Neither the workers nor the employers could have been as adequately represented on those matters determinative of basic policy.

The outlook

An acceptance of the present bargaining structure does not necessarily imply acceptance of all the undesirable results that flow from it. It may be true that, under association bargaining, there is relatively little that the management of any one company can do to improve the over-all situation. Progress must be made slowly. But rapid advances by one segment of an industry so closely integrated might prove disruptive over the long run.

Signs of real progress are discernible. Greater attention is being given by management to foremen, to the problem of communication, to personnel management apart from the collective bargaining relationship. The employer associations, conscious of their own deficiencies, are encouraging management in these efforts. An energetic public relations department, serving both of the employer associations, is communicating regularly and directly with employees, shippers, and other interested parties. These communications are effectively analyzing and discussing the problems of the industry, and should in time encourage the employees in an attitude of participation with management. They can form the basis for an understanding of the mutuality of interest between employer and employee. If carefully used, they may serve to strengthen responsible union leadership.

There cannot be much improvement expected so long as the fundamental policy of certain of the unions remains pledged to destroy private business management. Partly to meet that challenge, the employer associations must remain effective instruments of policy. But within the framework of association bargaining, the individual companies can do much to improve their personnel relations on a local level. Better management thinking at this level is already producing some favorable results with respect to seagoing employees.

The outlook with respect to the shoreside employees is less favorable. Here the absence of any direct employer-employee relationship makes improvement at the local level virtually impossible. Present practices result in the ILWU fulfilling not only the functions of a trade-union, but many of the normal functions of the employer as well. Industrial peace will come to the western waterfront only when mature responsible leadership genuinely concerned with building a healthy industry sit on both sides of the bargaining table.

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